TPCSA Model Board Policy Series

Module 1 – Governance

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PG-1.101 BOARD POLICY AND ADMINISTRATIVE PROCEDURES

Sec.1. MANAGEMENT BY BOARD OF DIRECTORS

In accordance with applicable law, the Board of Directors of Richard Milburn Academy/Texas, Inc. (the "Board") shall manage the affairs of Richard Milburn Academy.

Sec.2. MANAGEMENT THROUGH BOARD POLICY AND DELEGATION

The Board shall manage the day-to-day affairs of Richard Milburn Academy through authorized delegation and the adoption of policies conforming to applicable law and offering best practices.

Sec. 3. OVERSIGHT OF DAILY OPERATIONS

The Board's daily oversight and management of Richard Milburn Academy shall be through a chief executive officer, titled the Superintendent. As the Board's representative, the Superintendent shall oversee and be responsible for the daily implementation of Board adopted policies, plans, budgets and other actions and resolutions.

Sec. 4. BOARD POLICY TO SUPPLEMENT LAW AND RULES

The policies adopted by the Board shall not supersede and are not in lieu of the legal requirements set out in state and federal law and rule. Instead, Board policy shall supplement existing legal requirements by providing direction to the Superintendent and Richard Milburn Academy personnel, parents, students and other affected parties in the conduct of the affairs of Richard Milburn Academy and in facilitating Richard Milburn Academy's compliance with state and Federal law and rule. In any instance in which Board policy conflicts with state and Federal law or rule, the pertinent legal requirement will govern and control.

Sec. 5. POLICY DEVELOPMENT AND ADOPTION

In collaboration with Board members, Richard Milburn Academy personnel, legal counsel, parents, and the public at large, the Superintendent may develop and propose to the Board policies that address legal requirements and/or best practices. In its sole discretion, the Board may consider and adopt the policy recommended by the Superintendent. A policy shall be adopted and become effective upon favorable approval by a majority of the Board members present and constituting a quorum at a regular or special meeting of the Board. The Board may adopt a policy with a later effective date if a majority of the Board designates a later adoption.

Sec. 6. GENERAL POLICY DEFINITIONS

The following definitions apply the individual policies contained in the Richard Milburn Academy Board Policy Manual:

The Board: The Board refers to the Board of Directors of Richard Milburn Academy/Texas, Inc.

Parent or Guardian: A "parent" or "guardian" includes a parent of a student and includes a natural parent, a guardian, a person standing in parental relation, or an individual acting as a parent in the absence of a parent or guardian. The term does not include a person as to whom the parent-child relationship has been terminated or a person not entitled to possession of or access to a child under a court order.

Sec. 7. NON-SUBSTANTIVE EDITS TO POLICIES

The Superintendent may make non-substantive and otherwise inconsequential changes to adopted Board policies to ensure consistency with existing laws and rules (*e.g.*, to include valid legal citations) and Richard Milburn Academy's organizational structure and operations (*e.g.*, to reference appropriate titles and departments). Legal counsel shall review any and all changes to Board policy by the Superintendent to identify edits that alter the intent of the Board. The Superintendent shall, at the first regular board meeting opportunity, inform the Board of any changes made to policies passed by the Board and shall provide the Board an opportunity through appropriate agenda item to override any changes made.

Sec. 8. IMPLEMENTATION OF BOARD POLICY THROUGH ADMINISTRATIVE PROCEDURES

The Superintendent or designee shall implement Board policy through administrative procedures which may include, but are not limited to the development and adoption of forms, department guides, manuals and/or handbooks. The Superintendent or designee may consult with Richard Milburn Academy personnel, legal counsel or other qualified professionals in the preparation of the administrative procedures.

The Superintendent or designee may amend administrative procedures as needed in conformance with Board policy and law. Should administrative procedure and policy conflict, policy will prevail except in instances where an administrative procedure has been reviewed and adopted by the Board subsequent to the approval of the underlying and conflicting Board policy.

The Superintendent or designee shall provide instruction, training, and supervision to Richard Milburn Academy personnel in the implementation of Board policy and corresponding administrative procedures and shall ensure that Board policy and administrative procedures are provided and available to school personnel, parents, students and other affected parties.

Sec. 9. OFFICIAL BOARD POLICIES AND ADMINISTRATIVE PROCEDURES

The Superintendent shall maintain the original and official policies and administrative procedures adopted by the Board and the corresponding administrative procedures approved by the Superintendent in the central administrative office. In the event that a conflict arises between copies of a Board policy or administrative procedure, the official copy shall prevail as the authoritative record.

Sec. 10. ACCESSIBILITY OF POLICIES AND PROCEDURES

Board policies shall be made accessible to the public at large on the Richard Milburn Academy's website and at the Richard Milburn Academy's central administrative office. Administrative procedures shall be made available to the public at large as required by Chapter 551 of the Texas Government Code. Board policies and the administrative procedures implementing Board policies shall be provided and otherwise made readily accessible to all Richard Milburn Academy personnel.

Sec. 11. CAMPUS AND DEPARTMENT PROCEDURES

Individual Richard Milburn Academy campuses and departments may develop campus or departmental procedures, guides or manuals implementing and not conflicting with Board policy or administrative procedures.

PG-1.102 DISTRICT FOUNDATIONS

Sec.1. SCHOOL NAME

The official name of the Charter Holder for the open-enrollment charter school is Richard Milburn Academy/Texas, Inc.

The official name of the Charter School is Richard Milburn Alternative High School (Killeen), which may be referred to throughout the Board Policy Manual as "Richard Milburn Academy" or "RMA".

Sec.2. RICHARD MILBURN ACADEMY/TEXAS INC. BOUNDARIES

In accordance with the Richard Milburn Alternative High School (Killeen) charter on file with the Texas Education Agency, Richard Milburn Academy is authorized to serve students who reside within the geographical boundaries of the following independent school districts:

KILLEEN – 014-801-001
Belton ISD
Copperas Cove ISD
Killeen ISD

ODESSA – 014-801-002
Ector County ISD
Rankin ISD

LUBBOCK – 014-801-004
Albernathy ISD
Frenship ISD
Idalou ISD
Lorenzo ISD
Lubbock ISD
Lubbock-Cooper ISD
New Deal ISD
Roosevelt ISD
Shallowater ISD
Slaton ISD
Smyer ISD
Southland ISD

HOUSTON – 014-801-005
Aldine ISD
Alief ISD
Cypress-Fairbanks ISD
Houston ISD
Humble ISD
Klein ISD
Spring Branch ISD
Spring ISD

FORT WORTH – 014-801-006
Aledo ISD
Arlington ISD
Birdville ISD
Castleberry ISD
Crowley ISD
Eagle Mt-Saginaw ISD
Everman ISD

Fort Worth ISD
Highland Park ISD
Hurst-Euless-Bedford ISD
Kennedale ISD
Lake Worth ISD
White Settlement ISD

CORPUS CHRISTI – 014-801-007
Aransas County ISD
Aransas Pass ISD
Banquete ISD
Bishop CISD
Calallen ISD
Corpus Christi ISD
Flour Bluff ISD
Gregory-Portland ISD
Ingleside ISD
Orange Grove ISD
Port Aransas ISD
Robstown ISD
Tuloso-Midway ISD
West Oso ISD

AMARILLO – 014-801-008
Amarillo ISD
Bushland ISD
Canyon ISD
River Road ISD

PASADENA – 014-801-009
Goose Creek ISD
Pasadena ISD

MIDLAND – 014-801-010
Greenwood ISD
Midland ISD
Stanton ISD

19 TAC § 100.1207(g).

PG-1.103 BOARD AUTHORITY, ROLES AND RESPONSIBILITIES

Sec.1. CHARTER SCHOOL AUTHORITY

Richard Milburn Academy is governed under the governing structure described by its open-enrollment charter.

Sec.2. RESPONSIBILITY FOR SCHOOL OPERATIONS

a) Primary Responsibilities

The Board of Directors of Richard Milburn Academy/Texas, Inc. (the "Board") has the primary responsibility for:

(1) Implementing the public school program authorized by the Richard Milburn Academy/Texas, Inc. open-enrollment charter; and
(2) Ensuring the performance of students enrolled in Richard Milburn Academy in accordance with the Texas Education Code.

19 TAC 100.1113(a).

b) Alienation of Open-Enrollment Charter

The Board derives its authority to operate Richard Milburn Academy schools from the Richard Milburn Academy/Texas, Inc. open-enrollment charter.

(1) The Board shall, acting as a body corporate in meetings posted in compliance with Government Code, Chapter 551, oversee the management of all Richard Milburn Academy/Texas, Inc. charter schools.
(2) Except as provided below, the Board's powers and duties to operate all Richard Milburn Academy/Texas, Inc. charter schools shall not be delegated, transferred, assigned, encumbered, pledged, subcontracted, or in any way alienated by the Board.
(3) Richard Milburn Academy/Texas, Inc. shall notify the Texas Education Agency in writing prior to initiating bankruptcy proceeding respecting the charter holder.

19 TAC 100.1113(b)(1)-(3).

c) Exclusive Method for Delegating Charter Powers and Duties

Any power or duty of the Board delegated to an officer, employee, contractor, management company, creditor, or any other person shall either be specified in the Richard Milburn Academy open-enrollment charter or a charter delegation amendment approved by the Texas Education Agency division responsible for charter schools.

19 TAC 100.1113(c).

d) Accountability for Delegated Powers and Duties

The Board remains responsible for the management, operation, and accountability of all Richard Milburn Academy/Texas, Inc. charter schools, regardless of whether the Board delegates any of its powers or duties.

19 TAC 100.1113(d).

e) Non-delegable Duties

Absent specifically approved exceptions granted by the Commissioner of Education, the Board shall not delegate the following duties:

(1) Final authority to hear or decide employee grievances, citizen complaints, or parental concerns;
(2) Final authority to adopt or amend the Richard Milburn Academy/Texas, Inc. or Richard Milburn Academy's budget, or to authorize the expenditure or obligation of state funds or the use of public property;
(3) Final authority to direct the disposition or safekeeping of public records, except that the Board may delegate this function to any person, subject to the Board's superior right of immediate access to, control over, and possession of such records;
(4) Final authority to adopt policies governing Richard Milburn Academy operations;
(5) Final authority to approve audit reports under TEC, §44.008(d); and
(6) Final authority to select, employ, direct, evaluate, renew, non-renew, terminate, or set compensation for the Superintendent or, as applicable, the administrator serving as the educational leader and chief executive officer.

19 TAC 100.1113(a)(1)(A-F).

Sec. 3. IMMUNITY FROM LIABILITY

a) Statutory Immunity for the Charter Holder and Charter School

In matters related to operation of an open-enrollment charter school, an open-enrollment charter school or charter holder is immune from liability and suit to the same extent as a school district.

(1) An open-enrollment charter school is a governmental unit as defined by Section 101.001, Civil Practice and Remedies Code, and is subject to liability only as provided by Chapter 101, Civil Practice and Remedies Code, and only in the manner that liability is provided by that chapter for a school district.

(2) An open-enrollment charter school is a local government as defined by Section 102.001, Civil Practice and Remedies Code, and a payment on a tort claim must comply with Chapter 102, Civil Practice and Remedies Code.

(3) An open-enrollment charter school is a local governmental entity as defined by Section 271.151, Local Government Code, and is subject to liability on a contract as provided by Subchapter I, Chapter 271, Local Government Code, and only in the manner that liability is provided by that subchapter for a school district.

Tex. Educ. Code §12.1056

b) Statutory Immunity for Members of the Board of Directors

A member of the governing body of an open-enrollment charter school or of a charter holder is immune from liability and suit to the same extent as a school district trustee.

Tex. Educ. Code §12.1056

c) Statutory Immunity for Damages Arising from a Pandemic

An educational institution is not liable for damages or equitable monetary relief arising from a cancellation or modification of a course, program, or activity of the institution if the cancellation or modification arose during a pandemic emergency and was caused, in whole or in part, by the emergency. An "educational institution" means an institution or program that facilitates learning or the acquisition of knowledge, skills, values, beliefs or habits. The term includes a public primary or secondary school. *Civil Practice & Remedies Code 148.004.*

PG-1.104 ORIENTATION AND TRAINING

Sec. 1. BOARD MEMBER AND OFFICER TRAINING REQUIREMENTS

a) *General Requirements*

All governing board members and officers of Richard Milburn Academy must complete all applicable training requirements under Division 6, Subchapter AA, Chapter 100, Title 19 of the Texas Administrative Code. *19 TAC 100.1115(a)*.

All training requirements are expressed in instructional hours, meaning they exclude time spent for breaks, administrative tasks, and other non-instructional tasks. *19 TAC 100.1115(b)*.

All training must be delivered by a training provider registered under 19 TAC 100.1125. Unless otherwise allowed by the Texas Administrative Code, training may be provided through online instruction by an authorized training provider, provided that the training offers an opportunity for interaction with the instructor in real time or incorporates interactive activities that assess learning and provide feedback to the learner. *19 TAC 100.1115(c)-(d)*.

Sec. 2. Core Training for New Governing Board Members and Officers

b) *Required Training Hours*

A new governing board member or officer—defined as any board member or officer who has not served in their position or similar position requiring the core program training with a Texas charter school in the last three years—must complete core training that consists of 10 instructional hours outlined in this policy. *19 TAC 100.1117(a)*.

c) *Timeline for Completion*

The core training must be completed within one calendar year of appointment or election to the Board or employment by Richard Milburn Academy as applicable, unless otherwise indicated in 19 TAC 100.1117(d) or as required by Texas law. *19 TAC 100.1117(b)*.

d) *Required Course Content*

The core training shall cover, at minimum, the following topics:

(1) Charter Law, including:

(A) history and purpose of charter schools;
(B) charter holder contractual obligations to the Texas Education Agency (TEA);
(C) charter holder bylaws, charter board governance policy, and charter district policies and procedures;
(D) charter School Performance Framework;
(E) charter contract renewal with TEA;
(F) charter amendments;
(G) contract revocation;
(H) student enrollment and lotteries;
(I) roles and responsibilities by officer type;
(J) ensuring services to special populations;
(K) student code of conduct, student discipline, and parental rights; and
(L) other laws and rules that apply to charter holders;

(2) Accountability to the Public, including:

(A) Texas Open Meetings Act, open meetings requirements under Texas Government Code, Chapter 551, with special emphasis on posting the agenda, executive sessions, accessibility of the meeting location to the public, employee board members, and civil and criminal sanctions, which must be completed by new governing board members within the first 90 days after joining the board;
(B) Texas Public Information Act requirements under Texas Government Code, Chapter 552, which must be completed by new governing board members within the first 90 days after joining the board;
(C) nepotism and conflicts of interest;
(D) audits, investigations, and sanctions, with an emphasis on mandatory revocation for three consecutive unacceptable performance ratings required by Texas Education Code (TEC),
(E) §12.115(c), and mandatory expiration for three out of five unacceptable performance ratings required by TEC, §12.1141(d);
(F) student records and privacy; and
(G) other accountability or transparency requirements that apply to charter holders;

(3) Evaluating and Improving Student Outcomes, including:

(A) Texas Essential Knowledge and Skills;
(B) State of Texas Assessments of Academic Readiness;
(C) Texas A-F Accountability System;
(D) setting school board required specific, quantifiable student outcome goals for all students and disaggregated student groups;
(E) adopting plans to improve early literacy and numeracy and college, career, and military readiness;
(F) Results Driven Accountability;
(G) progress monitoring practices to improve student outcomes; and
(H) other best practices for improving student outcomes;

(4) Accountability for Public Funds, including:

(A) school finance in Texas, with an emphasis on charter finance;
(B) Financial Integrity Rating System of Texas;
(C) Annual Financial and Compliance Report;
(D) Financial Accountability System Resource Guide;
(E) financial controls and monitoring financial health;
(F) annual budgets; and
(G) other items related to school finance, risk management, related party transactions, or financial oversight; and

(5) School Safety, including:

(A) school safety plans and audits;
(B) school emergency and safety drills;
(C) behavioral threat assessment;
(D) school safety and security committee;
(E) school security guard;
(F) traumatic injury response;
(G) identifying child abuse and human trafficking;

(H) school safety facility standards; and
(I) other items related to school safety or student health.

19 TAC 100.1117(d).

Sec. 3. ADDITIONAL TRAINING FOR NEW GOVERNING BOARD MEMBERS AND OFFICERS

A new Board member or officer who has completed the core training under Section 2(c) of this policy next must complete additional training as outlined below. Training that does not conform to the curriculum outline released by the commissioner does not satisfy the requirements required under this section.

These additional training requirements must be completed after the core training is completed and within one calendar year of appointment or election to the Board or employment by Richard Milburn Academy, as applicable.

The Commissioner of Education may approve and disseminate a curriculum outline that specifies all additional training content for this subsection. Training that does not conform to any curriculum outline released by the Commissioner of Education does not satisfy the requirements of this section.

19 TAC 100.1119(a), (b), (c).

a) *Board Member Requirements*

A new Board member must complete two additional instructional hours on board governance requirements and best practices, including:

(1) hiring and evaluating a superintendent;
(2) required training and governance requirements;
(3) non-delegable board governance duties;
(4) board meeting protocols; and
(5) other practices for effective governance and continuous improvement.

19 TAC 100.1119(d)

b) *Officer Requirements*

A new officer must complete additional training hours specific to their role as follows:

(1) Chief executive and central administrative officers must complete 20 additional instructional hours that further explore the core training topics outlined in §100.1117(d), including:

(A) two hours on Charter Law;
(B) two hours on Accountability to the Public;
(C) six hours on Evaluating and Improving Student Outcomes (EISO);
(D) three hours on Accountability for Public Funds;
(E) three hours on School Safety; and

(F) four hours on any other core training topic outlined in 19 TAC 100.1117(d).

(2) Campus administrative officers are not required to complete additional instructional hours.

(3) Business managers must complete 20 additional instructional hours that further explore the core training topics outlined in §100.1117(d), including:

(A) two hours on Charter Law;
(B) two hours on Accountability to the Public;
(C) three hours on EISO;
(D) nine hours on Accountability for Public Funds; and
(E) four hours on any other core training topic outlined in §100.1117(d).

19 TAC 100.1119(e).

c) *Excess Hours Earned*

Twenty-five percent of instructional hours earned in excess of the requirements set forth in this section by a new governing board member or officer may be carried over to meet the following year's requirement under §100.1121 of this title (relating to Continuing Training for Governing Board Members and Officers). *19 TAC 100.1119(f)*.

Sec. 4. CONTINUING TRAINING REQUIREMENTS

Any Board member or officer who has completed the training requirements under Sections 2 and 3 of this policy must annually thereafter complete additional training. *19 TAC 100.1121(a)*.

Continuing training shall fulfill training needs determined by Richard Milburn Academy/Texas, Inc. based on charter needs; address updated items identified in core topics or cover in greater depth than the curriculum outline indicates for initial training on those topics; or address applicable topics if Richard Milburn Academy/Texas, Inc. has lower than a C in the Texas A-F accountability System, lower than a C in the Financial Integrity System, or is rated in TIER 3 on the Charter School Performance Framework, or is being sanctioned, investigated, or is required by the TEA to take corrective action training. *19 TAC 100.1121(b)*.

a) *Board Member Requirements*

Board members must annually receive six instructional hours of training. *19 TAC 100.1121(c)*.

b) *Officer Requirements*

An officer must complete additional training hours specific to their role as follows.

(1) Campus administrative officers must annually receive five instructional hours of training.
(2) Business managers must annually receive 15 instructional hours of training.

(3) Chief executive and central administrative officers must annually receive 15 instructional hours of training.

19 TAC 100.1121(d).

c) *Excess Hours Earned*

Twenty-five percent of instructional hours earned in excess of the requirements set forth in this section by a governing board member or officer may be carried over to meet the following year's requirement under this section. *19 TAC 100.1121(e)*.

d) *Exemptions*

i. *Board Members*

A Board member who serves on the governing body of a governmental entity or an institution of higher education as defined under Texas Education Code § 61.003 is exempt from the training required by this policy if, by virtue of such service, the Board member is subject to other mandatory training and the remaining Board members comply with all applicable training requirements. *19 TAC 100.1115 (e)(1)*.

ii. *Officers*

A central administrative officer is exempt from the training required by this policy if the person is the holder in good standing of a standard superintendent certificate, or its lifetime equivalent, issued by the State Board for Educator Certification and all other officers of Richard Milburn Academy comply with all applicable training requirements. *19 TAC 100.1115(e)(2)*.

A campus administrative officer is exempt from the training required by this policy if the person is the holder in good standing of a standard principal certificate, or its lifetime equivalent, issued by the State Board for Educator Certification, and all other officers of Richard Milburn Academy comply with all applicable training requirements. *19 TAC 100.1115(e)(3)*.

A business manager is exempt from:

(1) the training required by this policy if the person is the holder in good standing of one or more of the following credentials issued by the Texas Association of School Business Officials, and all other officers of Richard Milburn Academy comply with all applicable training requirements:

(A) Registered Texas School Business Administrator;
(B) Certified Texas School Business Official;
(C) Certified Texas School Business Specialist;
(D) Certified Texas School Business Administrator; or
(E) Charter School Business Officer Certification; and

(2) any single part of required training, if:

(A) the business manager is a certified public accountant (CPA) registered in good standing with the Texas State Board of Public Accountancy; and
(B) the subject matter of the module of required training is covered by the Uniform CPA Examination administered by the Texas State Board of Public Accountancy.

19 TAC 100.1115(e)(4).

iii. *Participation in Shared Services Cooperative*

A Richard Milburn Academy officer is exempt from a module of required training on a specific duty or responsibility if:

(1) Richard Milburn Academy/Texas, Inc.is a member of a shared services cooperative;

(2) the written contract establishing the cooperative assigns to the cooperative the specific duty or responsibility, and assigns to the cooperative the requirement to complete that module of training, by:

(A) ensuring that all relevant employees attend that module of required training and receive a certificate of course completion for that module from a regional education service center or training provider registered under 19 TAC 100.1125; or
(B) if the cooperative is a registered training provider, ensuring that all relevant employees attend that module of training and receive a certificate of course completion for that module from the cooperative; and

(3) all relevant employees of the cooperative actually attend that module of training and receive a certificate of completion for that module.

19 TAC 100.1123(a).

Sec. 5. RECORD OF COMPLIANCE

Each Board member and each officer of Richard Milburn Academy must comply with the core, annual, and additional training requirements required by law. Richard Milburn Academy shall document its compliance with these requirements. *19 TAC 100.1127(1)*.

Sec. 6. CONTINUED SERVICE

Continued service as a Board member or as an officer of Richard Milburn Academy/Texas, Inc.is conditioned on satisfaction of applicable training requirements. *19 TAC 100.1127(2)*.

Sec. 7. AUDIT DISCLOSURE

Richard Milburn Academy shall separately disclose, in its annual audit report of its financial and programmatic operations, any Board member or officer of Richard Milburn Academy/Texas, Inc.who fails

to complete applicable training requirements and who continues to serve in such capacity as of the date of the audit report. *19 TAC 100.1127(3).*

PG-1.105 ETHICS, CONFILICT OF INTEREST, AND NEPOTISM

PART I: PREAMBLE

The Board of Directors (collectively, the "Board" or the "Directors," and individually a "Director") of Richard Milburn Academy/Texas, Inc. is committed to maintaining the highest legal and ethical standards in the conduct of the business of Richard Milburn Academy/Texas, Inc. and to protecting the integrity and reputation of Richard Milburn Academy/Texas, Inc., Richard Milburn Academy, the Board, and all Richard Milburn Academy employees, volunteers, and programs.

The Directors and Officers (as defined below) shall exercise their duties honestly, in good faith, and with a high standard of diligence and care. Accordingly, the Directors and Officers shall ensure that they (1) do not compromise their independence of judgment, (2) preserve confidence and trust in the organization and the Board, and (3) protect and fulfill the mission of Richard Milburn Academy/Texas, Inc. As such, this Policy will assist Directors and Officers as they identify actual or potential conflicts of interest, and with a procedure to address conflicts which may arise.

PART II: DEFINITIONS

The following terms shall have the following meaning in this policy:

(1) **Director or Officer.** A member of the governing body of a charter holder, a member of the governing body of a charter school, or an officer of a charter school. An officer or director means a person charged with the duties of, or acting as, a Chief Executive Officer, a Central Administration Officer, a Campus Administration Officer, or a Business Manager, regardless of whether the person is an employee or contractor of a charter holder, charter school, management company, or any other person; or a volunteer working under the direction of a charter holder, charter school, or management company. A charter holder employee or independent contractor engaged solely in non-charter activities for the charter holder is not an "officer of a charter school." *19 TAC §100.1001(20)*.

(2) **Business entity**. A sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, agency, political subdivision, or any other entity recognized by law.

(3) **Substantial interest in business entity**. A person has a substantial interest in a business entity if: (1) the person owns 10% or more of the voting stock or shares of the business entity or owns either 10% or more or $15,000 or more of the fair market value of the business entity; or (2) funds received by the person from the business entity exceed 10% of the person's gross income for the previous year.

(4) **Substantial interest in real estate**. A person has a substantial interest in real estate, if the interest

is an equitable or legal ownership with a fair market value of $2,500 or more.

(5) **Substantial interest through a relative or family member**. A Director or Officer is considered to have a substantial interest if a person related to the Director or Officer within the third degree by consanguinity or the third degree by affinity (as defined below) has a substantial interest through a relative. *19 TAC § 100.1145(d)*.

(6) **Family.** Family means a disqualified person's spouse, siblings, spouses of siblings, ancestors, children, grandchildren, great grandchildren, and spouses of children, grandchildren, and great grandchildren.

(7) **Disqualified person.** A disqualified person is any person who was in a position to exercise substantial influence over the affairs of Richard Milburn Academy/Texas, Inc. at any time during the lookback period as further defined in IRS regulations. It is not necessary that the person actually exercise substantial influence, only that the person be in a position to do so.

PART III: ETHICAL PRINCIPLES

Sec. 1. PERSONAL AND PROFESSIONAL INTEGRITY

Directors and Officers shall conduct themselves in an honest and ethical manner, including the ethical handling of actual or apparent conflicts of interest, as set forth below.

Sec. 2. FINANCIAL STEWARDSHIP

As a tax-exempt public charity, Richard Milburn Academy/Texas, Inc. shall expend funds and record those expenditures in a manner that advances the charitable and educational mission and objectives of Richard Milburn Academy/Texas, Inc., and not the private interests of Directors or Officers.

Sec. 3. PUBLIC ACCOUNTABILITY

Richard Milburn Academy/Texas, Inc. shall provide comprehensive and timely information in accordance with applicable state and federal law, and shall be responsive to reasonable requests for information about its activities. Additionally, informational data about Richard Milburn Academy/Texas, Inc., such as IRS Form 990, audited financial statements and Annual Financial and Compliance Report, shall be made available to the public in accordance with applicable state and federal law.

Sec. 4. ACCURACY AND RETENTION OF RECORDS

Richard Milburn Academy/Texas, Inc. will create and maintain records that satisfy operational and legal requirements, including federal, state and local laws.

Sec. 5. POLITICAL ACTIVITIES

As a 501(c)(3) tax-exempt public charity, Richard Milburn Academy/Texas, Inc. shall not engage in political activities. Directors and Officers shall not use their relationship with Richard Milburn Academy/Texas, Inc. to promote or oppose political candidates or parties, or to create the appearance that Richard Milburn Academy/Texas, Inc. endorses or opposes a political candidate or party for elected office.

Sec. 6. ENDORSEMENTS AND USE OF THE RICHARD MILBURN ACADEMY/TEXAS, INC.

The Richard Milburn Academy/Texas, Inc. and Richard Milburn Academy name, logo, letterhead, or other intellectual property may not be used by any person to endorse or gain support for a cause without prior authorization in writing from the Directors.

Sec. 7. QUESTIONS, CONCERNS OR REPORTS OF VIOLATIONS

Should a Director or Officer believe a colleague is violating the obligations or expectations of this Policy, or is otherwise acting in an illegal or unethical manner, it is his or her duty to report the matter to the President of the Board, or the Chief Executive Officer/Superintendent, as appropriate.

PART IV: CONFLICTS OF INTEREST

Sec. 1. COMPLIANCE WITH STATE LAW

Richard Milburn Academy and its Officers and Directors shall comply with state law governing conflicts of interest among charter school and charter holder board members and officers, as described in Chapter 12 of the Texas Education Code and 19 TAC §§ 100.1143-100.1151 including, but not limited to the following:

a) Employees Serving on the Board

(1) Directors and Officers of Richard Milburn Academy shall comply with Local Government Code, Chapter 171 in the manner provided by the conflict of interest provisions described in 19 TAC §§ 100.1143-100.1151.

(2) Officers of Richard Milburn Academy are defined by the Commissioner of Education to be persons charged with the duties of, or acting as a Chief Executive Officer, a Central Administration Officer, a Campus Administration Officer, or a Business Manager, regardless of whether the person is an employee or contractor of the charter holder, the school, a management company, or any other person; or a volunteer working under the direction of the charter holder, the school, or a management company. A charter holder employee or independent contractor engaged solely in non-charter activities for the charter holder is not an "officer" of Richard Milburn Academy.

(3) The Richard Milburn Academy Chief Executive Officer is a person (or persons) directly responsible to the governing body of the charter holder for supervising one or more Central Administration Officers, Campus Administration Officers, and/or Business Managers.

(4) A Central Administration Officer for Richard Milburn Academy is a person charged with the duties of, or acting as, a Chief Operating Officer, director, or assistant director of the charter holder for Richard Milburn Academy, including one or more of the following functions:

(A) assuming administrative responsibility and leadership for the planning, operation, supervision, or evaluation of the education programs, services, or facilities of the Board, for appraising the performance of the Board's or Richard Milburn Academy's staff;

(B) assuming administrative authority or responsibility for the assignment or evaluation of any of the personnel of the Board, including those employed by a management company;

(C) making recommendations to the Board or Richard Milburn Academy regarding the selection of personnel of the Board, including those employed by a management company;

(D) recommending the termination, non-renewal, or suspension of an employee or officer of the Board, including those employed by a management company; or recommending the termination, non-renewal, suspension, or other action affecting a management contract;

(E) managing the day-to-day operations of the Board, as its administrative manager;

(F) preparing or submitting a proposed budget to the charter holder Board or Richard Milburn Academy (except for developing budgets for a Richard Milburn Academy campus, if this is a function performed by a Campus Administration Officer under the terms of the open-enrollment charter);

(G) preparing recommendations for policies to be adopted by the Board, or overseeing the implementation of adopted policies, except for legal services provided by an attorney licensed to practice law in this state, or public accountancy services provided by a certified public accountant licensed to practice public accountancy in this state;

(H) developing, or causing to be developed, appropriate administrative regulations to implement policies established by the Board, except for legal services provided by an attorney licensed to practice law in this state, or public accountancy services provided by a certified public accountant licensed to practice public accountancy in this state;

(I) providing leadership for the attainment of student performance in Richard Milburn Academy, based on the indicators adopted under TEC §§ 39.053–39.054, or other indicators in the Richard Milburn Academy/Texas, Inc. charter; or

(J) organizing the central administration of the Board.

(5) A Campus Administration Officer for Richard Milburn Academy is a person charged with the duties of, or acting as, a principal or assistant principal of a Richard Milburn Academy campus, including one or more of the following functions:

(A) approving teacher or staff appointments for a Richard Milburn Academy campus, unless this function is performed by a Central Administration Officer under the terms of the open-enrollment charter;

(B) setting specific education objectives for a Richard Milburn Academy campus, unless this function is performed by a Central Administration Officer under the terms of the open-enrollment charter;

(C) developing budgets for a Richard Milburn Academy campus, unless this function is performed by a Central Administration Officer under the terms of the open-enrollment charter;

(D) assuming the administrative responsibility or instructional leadership, under the supervision of a Central Administration Officer, for discipline at a Richard Milburn Academy campus;

(E) assigning, evaluating, or promoting personnel assigned to a Richard Milburn Academy campus, unless this function is performed by a Central Administration Officer under the terms of the open-enrollment charter; or

(F) recommending to a Central Administration Officer the termination or suspension of an employee assigned to a Richard Milburn Academy campus, or recommending the non-renewal of the term contract of such an employee.

(6) A Business Manager is a person charged with managing the finances of Richard Milburn Academy/Texas, Inc. or Richard Milburn Academy.

(7) **Also Excluded from the Board.** Except as otherwise provided by law, a person who receives "compensation or remuneration" (as defined by law and herein) from the nonprofit corporation holding Richard Milburn Academy/Texas, Inc.'s open-enrollment charter may not serve on the Board, with the following exceptions:

(A) If each charter school operated by the Board as charter holder has received a satisfactory accountability rating, as defined by applicable law, for at least two of the preceding three school years, Richard Milburn Academy/Texas, Inc. employees may serve on the Board, as described below, and as provided by law.

(B) If the charter holder has operated at least one charter school which reported attendance that occurred prior to September 2, 2001, but no charter school operated by the charter holder has received a sufficient number of substantive ratings to determine whether it has received a satisfactory rating for at least two of the preceding three school years, then Richard Milburn Academy/Texas, Inc. employees may serve on the governing

body of the charter holder, as provided by law.

(C) An employee of Richard Milburn Academy/Texas, Inc may serve as a Director if: (i) only employees of Richard Milburn Academy/Texas, Inc, and not employees of the Board, serve on the Board; (ii) the compensation or remuneration received by that Director is limited to salary, bonuses, benefits, or other compensation received pursuant to the employment relationship with Richard Milburn Academy/Texas, Inc., (iii) Richard Milburn Academy/Texas, Inc. employees do not constitute a quorum of the Board or any committee of the Board; and (iv) all Richard Milburn Academy/Texas, Inc. employees serving on the Board comply with all applicable conflict of interest provisions required by law.

b) Conflicts Requiring an Affidavit and Abstention from Voting

The following circumstances shall be deemed a Conflict of Interest (as defined below), and the Director or Officer shall, in addition to the procedures set forth in Part III, Section 3 (Conflict of Interest Procedures), take the following action:

(1) If a Director or Officer has a substantial interest in a business entity or in real property, the Director or Officer shall file, before a vote, decision, or other action on any matter involving the business entity or the real property, an affidavit stating the nature and extent of the interest, and shall abstain from further participation in the matter if:

(A) In the case of a substantial interest in a business entity, the vote, decision, or other action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or

(B) In the case of a substantial interest in real property, it is reasonably foreseeable that a vote, decision, or other action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

(2) The affidavit described above is filed with the Secretary of the Board.

(3) The Director or Officer filing the affidavit shall abstain from further participation in the matter requiring the affidavit. A Director or Officer filing the affidavit shall abstain from further participation in the matter requiring the affidavit unless a majority of the Board is composed of persons who are likewise required to file, and who do file affidavits of similar interests on the same official action.

c) Separate Vote on Budget Item

The Directors shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a Director has a substantial interest. Abstention is required, except as provided above and in 19 TAC § 100.1147(c), otherwise the affected Director may not participate in that separate vote. The affected Director may vote on a final budget if: (1) the affected Director has complied with the above-stated requirements; and (2) the matter in which the affected Director is concerned has been resolved.

Sec. 2. STATEMENT ON FEDERAL LAW

Richard Milburn Academy/Texas, Inc. and its Officers and Directors shall comply with the federal regulations regarding private benefit and excess benefit transactions as described in Section 4958 of the Internal Revenue Code and 26 CFR § 53.4958 (the "federal tax rules") when it is contemplating entering into a transaction or arrangement that may benefit the private interest of a Director or Officer or other individual deemed to be a disqualified person under the federal tax rules. A "disqualified person" includes Directors and Officers, and any person who is in a position to exercise substantial influence over the affairs of the corporation. A "disqualified person" includes Family (as defined in Section II of this policy) of the disqualified person.

a) Interested Person

Any Director or Officer, employee, or member of a committee with powers delegated by the Board who has a direct or indirect interest, as defined below, is an "Interested Person."

(1) A person has an "Interest" if the person has, directly or indirectly, through business, investment, or Family:

(A) an ownership or investment interest, directly or indirectly, in any entity with which Richard Milburn Academy/Texas, Inc. has a transaction or arrangement;

(B) a compensation arrangement with Richard Milburn Academy/Texas, Inc., or with any entity or individual with which Richard Milburn Academy/Texas, Inc. has a transaction or arrangement; or

(C) a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which Richard Milburn Academy/Texas, Inc. is negotiating a transaction or arrangement.

(2) "Compensation" is defined to include direct and indirect remuneration, as well as gifts or favors that are not insubstantial.

(3) A person has an "Interest" if the person has a substantial interest in a business entity or a substantial interest in real property as described in Part III, Section 2-a-1 above.

b) Interested Person with Conflict of Interest

An Interested Person shall have a Conflict of Interest (as defined in this policy) only if the Board or the appropriate committee determines that a Conflict of Interest exists in accordance with the procedures set forth below.

Sec. 3. CONFLICT OF INTEREST PROCEDURES

a) Duty of Prior Disclosure

In connection with any actual or potential conflict of interest, an Interested Person shall disclose the existence of the Interest in writing to the Board as soon as he or she has knowledge of it, and the Board shall give such Interested Person the opportunity to disclose all material facts related thereto to the Board or designated committee considering the proposed transaction or arrangement. Such written disclosure shall be made part of and set forth in the Board minutes. In any event, the disclosure of any actual or potential conflict of interest by an Interested Person should occur prior to any consideration of the proposed transaction by the Board.

(1) **Transaction Not Subject to Board Action.** An Interested Person with any actual or potential conflict of interest with respect to a transaction or arrangement that is not the subject of Board action shall disclose to the President of the Board or Superintendent, any such Interest. Such disclosure shall be made as soon as the Interest is known to the Interested Person.

(2) **Untimely Disclosure.** If an Interested Person fails to disclose the Interest before the Board acts on a transaction as to which a Director has an Interest, then the Interested Person shall promptly submit a written statement to the Board setting forth all material facts regarding the Interest, along with an explanation concerning the untimely nature of the notice.

(3) **Failure to Disclose.** If the Board has reasonable cause to believe that an Interested Person failed to disclose an Interest, the Board shall inform the Interested Person of the basis for such belief and afford the Interested Person an opportunity to explain the alleged failure to disclose. After hearing the Interested Person's explanation, and conducting such investigation as may be warranted under the circumstances, the Board may determine that the Interested Person failed to disclose an actual Conflict of Interest. In such event, the Board shall vote on the appropriate corrective action.

b) Determining Whether a Conflict of Interest Exists

After disclosure of the Interest and all material facts related thereto, the Interested Person *shall leave the meeting of the Board or designated committee while a determination is made by disinterested Directors as to whether a conflict of interest ("Conflict of Interest") exists.* No Director shall vote on any matter in which he or she has a Conflict of Interest.

c) Vote by Disinterested Directors

(1) **Nonparticipation of Directors with Conflict.** A Director who has a Conflict of Interest shall neither vote nor participate in, nor be permitted to hear the Board's discussion of the matter, except to disclose material facts and to respond to questions. Such Director shall not attempt to exert his or her influence with respect to the matter, either before, during, or outside of the Board meeting.

(2) **Action by Disinterested Directors.** If the Board concludes that a Conflict of Interest exists, the Board shall determine by voting whether the transaction should be authorized,

approved or ratified. The vote shall be conducted as follows:

(A) Except as otherwise permitted by law, Directors with a Conflict of Interest shall leave the room in which the meeting is conducted.

(B) Except as otherwise allowed by law, and as set forth in Part III, Section 1-b-3 (Conflicts Requiring an Affidavit and Abstention from Voting), a majority of the disinterested Directors, without regard to any quorum requirement, must vote affirmatively for the transaction to be authorized, approved or ratified. However, a transaction cannot be authorized, approved or ratified by a single Director.

(3) **Vote Not Disallowed by Presence of Directors with a Conflict.** The presence of, or a vote cast by, a Director with a Conflict of Interest in a transaction does not affect the validity of a vote regarding the transaction if the transaction is otherwise authorized, approved or ratified, as prescribed herein.

(4) **Circumstances in Which Comparability Data is Necessary**. If the transaction involves compensation for services of a Director, an Officer, or other individual deemed to be a disqualified person (as defined above at page 6(B)) under the federal tax rules, or if the transaction involves the transfer of property or other benefit to a Director, Officer, or other individual deemed to be a disqualified person under the federal tax rules, the disinterested Directors or committee must determine that the value of the economic benefit provided by Richard Milburn Academy/Texas, Inc. to the Interested Person or Persons does not exceed the value of the consideration received in exchange by obtaining and reviewing appropriate comparable data ("Comparability Data").

(A) When considering the comparability of compensation for example, the relevant data which the Board or committee may consider includes, but is not limited to, the following: (i) compensation levels paid by similarly-situated schools; (ii) the availability of similar services within the same geographic area; (iii) current compensation surveys compiled by independent firms; and (iv) written offers from similar institutions competing for the same person's services. When the transaction involves the transfer of real property as compensation, the relevant factors include, but are not limited to: (i) current independent appraisals of the property, and (ii) offers received in a competitive bidding process.

(B) Based on the Comparability Data, the Board or committee shall determine, by a majority vote of the disinterested Directors or committee members, whether the transaction or arrangement is fair and reasonable to Richard Milburn Academy/Texas, Inc. In conformity with the above determination, the Board or committee shall make its decision as to whether to enter into the transaction or arrangement.

(C) If such transaction or arrangement is approved by the Board or committee, the Comparability Data and the approval shall be made part of the Board minutes in accordance with Part III, Section 3-d (Documentation) below.

d) Documentation

The Board Secretary shall keep accurate minutes reporting:

(1) **Interest Disclosed; Determination of Conflict of Interest.** That the Interested Person(s) disclosed the Interest and the Board determined whether a Conflict of Interest exists. The minutes should include:

(A) The name(s) of the person(s) who disclosed or otherwise were found to have an Interest in connection with an actual or possible Conflict of Interest, the nature of the Interest, any action taken to determine whether a Conflict of Interest was present, and the Board's or committee's decision as to whether a Conflict of Interest in fact existed.

(B) The names of the persons who were present for discussions and votes relating to the Conflict of Interest, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

(C) A completed Affidavit of Abstention complying with Local Government Code Chapter 171 and 19 TAC §§ 100.1143-1149 (*see* Affidavit Exhibit A).

(2) **Nonparticipation of Directors with Conflict.** That the Director or Directors with an Interest or a Conflict of Interest left the room and did not participate in the determination of whether a Conflict of Interest exists or the vote regarding the transaction or arrangement;

(3) **Comparability Data.** The Comparability Data considered and relied upon by the Board in its consideration of the transaction or arrangement; and

(4) **Vote of Disinterested Directors.** That the remaining disinterested Directors reviewed the Transaction and voted upon it, and the result of their vote.

Sec. 4. COMPENSATION

(1) A Director who receives compensation, directly or indirectly, from Richard Milburn Academy/Texas, Inc. for services is precluded from voting on matters pertaining to that Director's compensation.

(2) A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from Richard Milburn Academy/Texas, Inc. for services is precluded from voting on matters pertaining to that member's compensation.

(3) No voting member of the Board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from Richard Milburn Academy/Texas, Inc., either individually or collectively, is prohibited from providing information to any committee regarding compensation.

(4) Except with respect to Board decisions regarding a *bona fide* class or category of employees pursuant to Government Code § 573.062(b), a voting member of the Board or any committee whose jurisdiction includes compensation matters is precluded from voting on personnel matters (including matters related to compensation) concerning a person related within the third degree by consanguinity or within the second degree by affinity (as defined below and as specified by Government Code § 573.002).

Sec. 5. ADDITIONAL PROHIBITION

No administrator, officer, or employee of Richard Milburn Academy and no member of the governing body of the charter school or its charter holder may derive any personal financial benefit from a real estate transaction with Richard Milburn Academy

Sec. 6. DISCLOSING VENDOR RELATIONSHIPS

Richard Milburn Academy/Texas, Inc. and its Officers and Directors shall comply with the state law disclosure requirements regarding relationships between vendors who conduct business with Richard Milburn Academy/Texas, Inc. as described in Chapter 176 of the Local Government Code.

a) ***Conflict Disclosure Statements by School Directors, the Superintendent, and Purchasing Agents***

(1) The Richard Milburn Academy/Texas, Inc. Directors, Superintendent, or any other agent of Richard Milburn Academy/Texas, Inc.who exercises discretion in the planning, recommending, selecting, or contracting of a vendor for the Charter School (hereinafter "Covered Individuals") must file a Conflicts Disclosure Statement with respect to a vendor if:

a. The vendor enters into a contract with Richard Milburn Academy/Texas, Inc. or Richard Milburn Academy/Texas, Inc. is considering entering a contract with the vendor, and the vendor has an employment or other business relationship with a Covered Individual or with a family member of a Covered Individual that will result in the Covered Individual or the family member of the Covered Individual receiving taxable income that exceeds $2,500 during the 12-month period preceding the date that the Covered Individual became aware that a contract between Richard Milburn Academy/Texas, Inc. and the vendor has been executed or Richard Milburn Academy/Texas, Inc.is considering entering into a contract with the vendor.

b. The vendor has given to a Covered Individual or a family member of a Covered Individual one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the Covered Individual becomes aware that a contract between Richard Milburn Academy/Texas, Inc. and the vendor has been executed or Richard Milburn Academy/Texas, Inc. is considering entering into a contract with the vendor.

c. The vendor has a family relationship with a Covered Individual.

(2) A Covered Individual is not required to file a Conflicts Disclosure Statement in relation to a gift accepted by the Covered Individual or a family member of the Covered Individual if the gift is a political campaign contribution, officeholder contribution, or food accepted as a guest. A Covered Individual is not required to file a Conflicts Disclosure Statement if the vendor is an administrative agency.

(3) A Covered Individual must file the Conflicts Disclosure Statement with the person responsible for maintaining Richard Milburn Academy/Texas, Inc. records or the designated Richard Milburn Academy/Texas, Inc. representative who maintains the statements and questionnaires filed under this policy by 5:00 p.m. on the seventh business day after the date on which the Covered Individual becomes aware of the facts that require the filing of the Conflicts Disclosure Statement.

(4) The Texas Ethics Commission provides the required Conflicts Disclosure Statement Form online at: (FORM CIS).

b) ***Vendor Submission of Conflict of Interest Questionnaires***

(1) A vendor must complete and file a Conflict of Interest Questionnaire if the vendor has a business relationship with Richard Milburn Academy/Texas, Inc. and:

a. Has an employment or other business relationship with a Covered Individual or with a family member of a Covered Individual; or

b. Has given a Covered Individual or a family member of a Covered Individual one or more gifts with the aggregate value of more than $100; or

c. Has a family relationship with a Covered Individual.

(2) A vendor must file the completed Conflict of Interest Questionnaire with the appropriate person responsible for maintaining Richard Milburn Academy/Texas, Inc. records or the designated representative who maintains the statements and questionnaires filed under this policy by the seventh business day after the later of the date of:

a. The date that the vendor begins discussions or negotiations to enter into a contract with Richard Milburn Academy/Texas, Inc. or submits to Richard Milburn Academy/Texas, Inc. an application, response to a request for proposals or bids, correspondence or another writing related to a potential contract with Richard Milburn Academy/Texas, Inc.; or

b. The date that the vendor becomes aware of an employment or other business relationship with a Richard Milburn Academy/Texas, Inc. Officer or Director or a family member of a Richard Milburn Academy/Texas, Inc. Officer or Director; that the vendor has given one or more gifts as described above; or of a family relationship with a Richard Milburn Academy/Texas, Inc. Officer or Director.

(3) A vendor must file an updated completed Conflict of Interest Questionnaire with the appropriate person responsible for maintaining Richard Milburn Academy/Texas, Inc. records or the designated representative who maintains the statements and questionnaires filed under this policy by the seventh business day after the date on which the vendor becomes aware of an event that would make a statement in the questionnaire incomplete or inaccurate.

(4) A Covered Individual who also serves as a Richard Milburn Academy/Texas, Inc. vendor is required to file the questionnaire if the Covered Individual enters or seeks to enter into a contract with Richard Milburn Academy/Texas, Inc. or is an agent of a person who enters or seeks to enter into a contract with Richard Milburn Academy/Texas, Inc.

(5) The Texas Ethics Commission provides the required Conflict of Interest Questionnaire form online at: (FORM CIQ).

c) ***Additional Requirements***

(1) **Maintaining Records**. The person responsible for maintaining Richard Milburn Academy/Texas, Inc. records or the designated representative who maintains the statements and questionnaires filed under this policy must maintain a list of Covered Individuals and make the list available to the public and any vendor who may be required to file a Conflict of Interest Questionnaire. This person must also maintain the statements and questionnaires that are required to be filed under these policies in accordance with Richard Milburn Academy/Texas, Inc.'s records retention schedule.

(2) **Electronic Filing**. The filing requirements of Chapter 176 of the Local Government Code, including signature requirements, may be satisfied by electronic filing in a form approved by the Texas Ethics Commission.

(3) **Internet Posting**. If Richard Milburn Academy/Texas, Inc. maintains an Internet website, the school must provide access to the statements and to questionnaires required to be filed under these policies on that website.

(4) **Requirements Cumulative**. The disclosure requirements under Chapter 176 of the Local Government Code are in addition to any other disclosure required by law.

d) ***Enforcement***

(1) A Covered Individual commits an offense under Chapter 176 of the Local Government Code if the Officer or Director is required to file a Conflicts Disclosure Statement and knowingly fails to timely file the statement.

(2) A vendor commits an offense under Chapter 176 of the Local Government Code if the vendor is required to file a Conflict of Interest Questionnaire and knowingly fails to timely file the questionnaire or knowingly fails to file an updated questionnaire after becoming aware of an event that would make the previously filed questionnaire incomplete or inaccurate.

(3) Offenses under Chapter 176 of the Local Government Code are classified as Class A-C misdemeanors depending on the contract price.

(4) Richard Milburn Academy/Texas, Inc. may reprimand, suspend, or terminate the employment of an employee who knowingly fails to comply with a requirement under these policies.

(5) The Board may, at its discretion, declare a contract void if the governing body determines that a vendor failed to file a Conflict of Interest Questionnaire.

PART V: NEPOTISM

Sec. 1. NEPOTISM GENERALLY PROHIBITED

A Director or Officer may not hire, select, appoint, confirm the appointment of, or vote for the hiring, selection, appointment, or confirmation of an individual who is to be directly or indirectly compensated from public funds or fees of office, if:

(1) The person is related to the Director or Officer by consanguinity (blood) within the third degree or by affinity (marriage) within the second degree (as defined below); or

(2) The Director or Officer holds the appointment or confirmation authority as a member of a local board and the person is related to another member of the Board by blood or marriage within a prohibited degree. Government Code§§ 573.002, 573.041.

(3) Refer to attached diagram, Exhibit B

Sec. 2. INDEPENDENT CONTRACTORS

The nepotism law governs the hiring of an individual, whether the individual is hired as an employee or as an independent contractor.

Sec. 3. PAYMENT TO PROHIBITED PERSON

A Director or Officer may not approve an account or draw or authorize the drawing of a warrant or order to pay the compensation of an ineligible person if the Director or Officer knows the person is ineligible. Government Code § 573.083; 19 TAC § 100.1141.

Sec. 4. RELATION BY CONSANGUINITY

Two persons are related to each other by consanguinity (blood) if one is a descendant of the other or if they share a common ancestor. An adopted child is considered to be a child of the adoptive parents for this purpose. Government Code § 573.022.

a) Third Degree of Consanguinity

An individual's relatives within the third degree by consanguinity are the individual's:

(1) Parent or child (first degree);

(2) Brother, sister, grandparent, or grandchild (second degree); and

(3) Great-grandparent, great-grandchild, aunt or uncle (who is a sibling of a parent of the person), nephew or niece (who is a child of a brother or sister of the person) (third degree). Government Code 573.023.

Note: There is no distinction under the nepotism statute between half-blood and full-blood relations. Thus, half-blood relationships fall within the same degree as those of the full blood. *See* Exhibit B.

Sec. 5. RELATION BY AFFINITY

Two persons are related to each other by affinity (marriage) if they are married to each other, or if the spouse of one of the persons is related by consanguinity to the other person. The ending of a marriage by divorce, or the death of a spouse ends relationships by affinity created by that marriage unless a child of the marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives. This provision applies to a Board member or Officer only until the youngest child of the marriage reaches the age of 21 years. Government Code § 573.024.

a) First Degree of Affinity

A husband and wife are related to each other in the first degree by affinity. For other relationships, the degree of affinity is the same as the degree of the underlying relationship by consanguinity. For example, if two persons are related to each other in the second degree by consanguinity, the spouse of one of the persons is related to the other person in the second degree by affinity.

b) Second Degree of Affinity

If two individuals are related to each other in the second degree by consanguinity, the spouse of one of the individuals is related to the other individual in the second degree by affinity.

c) Third Degree of Affinity

An individual's relatives within the third degree of affinity are:

(1) Anyone related by consanguinity to the person's spouse within the first or second degree; and

(2) The spouse of anyone related to the person by consanguinity within the first or second degree. Government Code § 573.025.

Sec. 6. EXISTING EMPLOYEES/CONTINUOUS EMPLOYMENT

The nepotism prohibitions do not apply to the appointment of a person to a position if the person is employed in the position immediately before the election or appointment of the Director or Officer to whom the person is related in a prohibited degree, and that prior employment is continuous for at least:

(1) Thirty days, if the Director or Officer is appointed;

(2) Six months, if the Director or Officer is elected. Government Code § 573.062(a); or

(3) A person who was not restricted or prohibited under Education Code 12.1055 as it existed before September 1, 2013, from being employed by Richard Milburn Academy/Texas, Inc. and who was employed by Richard Milburn Academy/Texas, Inc. before September 1, 2013, is considered to have been in continuous employment as provided by Government Code § 573.062(a), and is not prohibited from continuing employment with Richard Milburn Academy/Texas, Inc. Education Code § 12.1055(d).

a) Continuous Employment Exception

For purposes of calculating the appropriate date for the applicability of the continuous-employment exception, a superintendent with final authority to select personnel is an appointed Director or Officer. *Atty. Gen. Op. GA-177 (2004).* If an employee continues in a position under this exception, the Director or Officer to whom the employee is related in a prohibited degree may not participate in any deliberation or voting on the appointment, reappointment, employment, reemployment, change in status, compensation, or dismissal of the employee, if the action applies only to the employee and is not taken regarding a *bona fide* class or category of employees.

Government Code § 573.062(b). A "change in status" includes a reassignment within an organization, whether or not a change in salary level accompanies the reassignment. *Atty. Gen. Op. JC-193 (2000).* For an action to be "taken with respect to a *bona fide* category of employees," the officeholder's action must be based on objective criteria, which do not allow for the preference or discretion of the officeholder. *Atty. Gen. Op. DM-46 (1991).* The nepotism prohibitions do not apply to appointment or employment of a substitute teacher. Government Code § 573.061.

b) Retired Teachers

A teacher who has retired from a full-time, certified teacher position has broken his or her employment with Richard Milburn Academy, and does not qualify for the continuous employment exception to the nepotism laws. *Atty. Gen. Op. JC-442 (2001).*

Sec. 7. OTHER NEPOTISM EXCEPTIONS

The nepotism exceptions described in 19 TAC § 100.1139 also apply.

Notwithstanding an exception, a Director or Officer related in a prohibited degree may not participate in any deliberation or voting on the appointment, reappointment, or confirmation of same, employment, reemployment, change in status, compensation, or dismissal of an individual, unless the action is taken regarding a *bona fide* class or category of employees.

Sec. 8. TRADING PROHIBITED

A Director or Officer may not hire, select, appoint, confirm the appointment of, or vote for the hiring, selection, appointment, or confirmation of an individual to a charter position in which the individual's services are under the Director or Officer's direction or control if:

(1) The person is related to another Director or Officer within the prohibited degree; and

(2) The appointment would be carried out, in whole or in partial consideration for the other Director or Officer's hiring, selecting, appointing, confirming, or voting for an individual who is related to the first Director or Officer within a prohibited degree. Government Code § 573.044.

Sec. 9. SOURCE OF FUNDING IRRELEVANT

The rules against nepotism apply to employees paid with public funds, regardless of the source of those funds. Thus, the rules apply in the case of a teacher paid with funds from a federal grant. *Atty. Gen. L.A. No. 80 (1974).*

Sec. 10. ENFORCEMENT OF NEPOTISM PROHIBITIONS

In accordance with state law, a Director or Officer who violates the nepotism regulations shall be removed from office by the Board. A failure to thus remove is a material charter violation.

(1) Removal must be in accordance with the Articles and Bylaws of Richard Milburn Academy/Texas, Inc. and in accordance with the terms of the charter and other state and federal law.

(2) A Director or Officer violating the nepotism laws may also be removed by the Attorney General and may be subject to criminal and other penalties.

Sec. 11. DELEGATION OF HIRING AUTHORITY

The Board may delegate final authority to select Richard Milburn Academy personnel to the Superintendent, Human Resources Director, or other designated Officer.

If such authority is designated to the Superintendent, the Superintendent is a "public official" for purposes of Chapter 573, Government Code, with respect to a decision made under that delegation of authority. Education Code § 11.1513(f). As such, if the Chief Executive Officer/Superintendent has been delegated final authority to select Richard Milburn Academy personnel, the Chief Executive Officer/Superintendent may not hire, select, appoint, confirm the appointment of, or vote for the hiring, selection, appointment, or confirmation of an individual who is to be directly or indirectly compensated from public funds or fees of office, if:

(1) The person is related to the Chief Executive Officer/Superintendent by consanguinity (blood) within the third degree or by affinity (marriage) within the second degree; or

(2) The person is related to a Board member by blood or marriage within a prohibited degree. Government Code §§ 573.002, 573.041.

An individual who is related to the Chief Executive Officer/Superintendent within the relevant level or consanguinity (blood) or by affinity (marriage) and was employed by Richard Milburn Academy before September 1, 1993 is considered to have been in continuous employment as provided by Government Code § 573.062(a), and is not prohibited from continuing employment with Richard Milburn Academy.

Notwithstanding the above, each Director remains subject to Chapter 573, Government Code with respect to all Richard Milburn Academy employees. Education Code §§ 11.1513(f), 12.1055.

PART VI: RELATED PARTY TRANSACTIONS

Sec. 1. COMPLIANCE WITH COMMISSIONER RULE

Richard Milburn Academy/Texas, Inc. shall comply with all rules issued by the Commissioner of Education concerning related party transactions under Education Code §§ 12.1166–.1167. This includes any rule concerning notification to the Commissioner if Richard Milburn Academy/Texas, Inc. intends to enter into a transaction with a related party and provide an appraisal from a certified appraiser to the Texas Education Agency.

Sec. 2. DEFINITIONS

For purposes of this policy, the term "related party" includes:

(1) a person who is:
   a. a current or former (within the last five years) board member for Richard Milburn Academy/Texas, Inc. or the charter school;
   b. a current or former (within the last five years) administrator for Richard Milburn Academy/Texas, Inc. or the charter school;
   c. a current or former officer of a charter school;
   d. a person who is related to a person described in clauses (a)-(c) of this subparagraph within the third degree of consanguinity or second degree of affinity, as determined under Texas Government Code, Chapter 573;
   e. a person who within the last five years ending on the date of the transaction was in a position to exercise substantial influence over Richard Milburn Academy/Texas, Inc. including any "disqualified person" as defined under Internal Revenue Code ("IRC"), § 4958, or Treasury Regulation 26 CFR § 53.4958-3;
   f. a family member of a person described in clause (e) of this subparagraph, which includes: (i) the person's spouse or ancestor; or (ii) the person's children, grandchildren, great grandchildren, siblings, half-siblings, and their spouses;
   g. any person described in clause (e) or (f) of this subparagraph with respect to an organization described in IRC, § 509(a)(3), that was organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of Richard Milburn Academy/Texas, Inc.; or
   h. any person who is a donor or donor advisor;

(2) an entity that:
   a. is related to Richard Milburn Academy/Texas, Inc.;
   b. is participating in a joint venture with Richard Milburn Academy/Texas, Inc.;
   c. is jointly governed with Richard Milburn Academy/Texas, Inc.;

d. has a current or former (within last five years) board member, administrator, or officer who is either: (i) a current board member, administrator, or officer of Richard Milburn Academy/Texas, Inc. or Richard Milburn Academy; or (ii) related to within the third degree of consanguinity or second degree of affinity of a person described in clause (i) of this subparagraph as determined under Texas Government Code, Chapter 573;
e. is more than 35% controlled by individuals described in part 1(e) and (f) of this section, including: (i) a corporation in which such persons own more than 35% of the total combined voting power; (ii) a partnership in which such persons own more than 35% of the profits interest; (iii) a trust or estate in which such persons own more than 35% of the beneficial interest; or (iv) an entity for which the constructive ownership rules of IRC § 4946(a)(3) and (a)(4) apply; or
f. Any private foundation as described in IRC § 509(a)(3) that: (i) is organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of Richard Milburn Academy/Texas, Inc.; and (ii) meets the control test in section 2(e);

(3) a donor-advised fund if a donor (or any person appointed or designated by such donor) has, or reasonably expects to have, advisory privileges with respect to the distribution or investment of amounts held in such fund or account by reason of the donor's status as a donor;
(4) any person or entity associated with the section regarding sponsoring entity;
(5) a lender providing secured or unsecured debt to Richard Milburn Academy/Texas, Inc. or Richard Milburn Academy other than bonds or tax-exempt facility financing, for any transaction other than the loan or note agreement; or
(6) a major donor to Richard Milburn Academy/Texas, Inc. or Richard Milburn Academy under a written grant agreement or other contract, for any transaction with the donor other than the written grant agreement.

19 TAC 100.1001(25).

Sec. 3. AUDIT BY COMMISSIONER

If the aggregate amount of all transactions between Richard Milburn Academy/Texas, Inc. and a related party exceeds $5,000.00, the Commissioner may conduct an audit of such transaction. If the Commissioner determines a transaction with a related party using funds received under Education Code § 12.106 was structured in a manner that did not benefit Richard Milburn Academy/Texas, Inc. or that the transaction was in excess of fair market value, the Commissioner may order that the transaction be reclassified or that other action be taken as necessary to protect Richard Milburn Academy/Texas, Inc.'s interests. Failure to comply with the Commissioner's order is a material charter violation.

Sec. 4. ANNUAL AUDIT DISCLOSURE

Richard Milburn Academy/Texas, Inc. must include in its annual audit a list of all transactions with a related party. Additionally, the annual audit must separately disclose:

1. All financial transactions between Richard Milburn Academy/Texas, Inc. and any related party, separately stating the principal, interest, and lease payments; and

2. The total compensation and benefits provided by Richard Milburn Academy/Texas, Inc. and any related party for each member of the Board and each officer and administrator of Richard Milburn Academy and the related party.

Education Code § 12.1168; *19 TAC 100.1069(c)*.

PART VII: CONFIDENTIALITY

A Director and Officer shall exercise care not to disclose Confidential Information. Confidential Information is information deemed confidential by law, and any information not generally known or publicly available, or that Richard Milburn Academy maintains as confidential, proprietary, restricted, or otherwise as not to be disclosed generally, and any information that the Board or Richard Milburn Academy otherwise determines or deems as Confidential Information.

A Director shall not use Richard Milburn Academy/Texas, Inc. property, Confidential Information, or the status of his or her position to solicit business for others, or in any other manner obtain a private financial, social or political benefit.

PART VIII: DISCLOSURE AND ANNUAL REVIEW

Sec. 1. NEW DIRECTORS AND OFFICERS

Each new Director and Officer shall review a copy of this Policy and shall complete the Annual Statement of Disclosure and Compliance attached hereto as Exhibit C. The Board shall treat completed Annual Statements of Disclosure and Compliance as Confidential Information.

Sec. 2. PERIODIC REVIEW

To ensure that Richard Milburn Academy/Texas, Inc. operates in a manner consistent with charitable purposes, and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects: (i) whether compensation arrangements and benefits are reasonable based on competent survey information, and are the result of arm's length bargaining; (ii) whether partnerships, joint ventures, and arrangements with management organizations conform to Richard Milburn Academy/Texas, Inc.'s written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes, and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

Sec. 3. ANNUAL REVIEW

Each current Director and Officer shall complete the Annual Statement of Disclosure and Compliance attached hereto as Exhibit C. The Board shall treat completed Annual Statements of Disclosure and Compliance as Confidential Information.

Sec. 4. APPLICABLE LAW

This Policy is supplemental to and does not replace federal, state or local laws governing conflicts of interest applicable to charter schools and charitable organizations. When in conflict, the

applicable law shall control.

Adopted the_____day of_____, 20____

_____	_____
President	Member
_____	_____
Secretary	Member
_____	
Treasurer	

EXHIBIT A

AFFIDAVIT OF ABSTENTION

STATE OF TEXAS §
§
COUNTY OF___ §

I,_____, a local public official, make this affidavit and hereby under oath state the following:

I have a substantial interest in a business entity or real property that may receive a special economic effect that is distinguishable from the effect on the public by an action contemplated by Richard Milburn Academy/Texas, Inc.

The business entity or real property in which I have a substantial interest is: [*name and address of business and/or description of property*]:

_____

_____

_____

I or a person that is related to me within the first degree of consanguinity (blood) or affinity (marriage) as defined by state law has a substantial interest in this business entity or real property for the following reasons [*check all that apply*]:

☐ an ownership interest of 10 percent or more of the voting stock or shares of the business entity;

☐ an ownership interest of 10 percent or more or $15,000 or more of the fair market value of the business entity;

☐ funds received from the business entity exceed 10 percent of_____(my, his, her) gross income for the previous year;

☐ real property is involved and_____(I, he, she) have/has an equitable or legal ownership with a fair market value of at least $2,500;

Upon filing of this affidavit with the official record keeper of Richard Milburn Academy/Texas, Inc., I affirm that I shall abstain from voting or further participating in any matter involving the business entity or real property, unless allowed by law.

SIGNED this the_____ day of_____, 20___ .

_____
Signature of Affiant

_____
Title

Before me, the undersigned authority, this day personally appeared _____ _____ (Affiant Name) and by oath swore that the facts herein above stated are true and correct to the best of his/her knowledge or belief.

SWORN TO and SUBSCRIBED before me on the_____day of_____, 20_.

_____
Notary Public, State of Texas

(seal) My commission expires: _____

EXHIBIT B

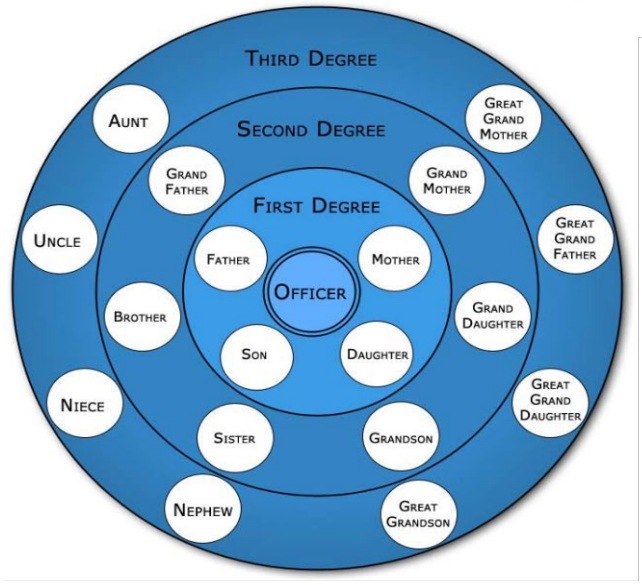
NEPOTISM CHART

NEPOTISM CHART

The chart below shows

- **Affinity Kinship (relationship by marriage)**
- **Consanguinity Kinship (relationship by blood) for purposes of interpreting nepotism as defined in VTCA Government Code, Chapter 573, §§573.021 – .025**

AFFINITY KINSHIP
Relationship by Marriage



CONSANGUINITY KINSHIP
Relationship by Blood

EXHIBIT C

ANNUAL STATEMENT OF DISCLOSURE AND COMPLIANCE

Name: _____

Position: _____

□ Please describe below any relationships, positions, or circumstances in which you are involved that you believe could be considered an Interest or that might be perceived as an actual or possible Conflict of Interest, as defined in the Richard Milburn Academy/Texas, Inc. Ethics, Conflict of Interest and Nepotism Policy. Please also describe any familial relationships that would qualify as relationships within the prohibited degree as defined in the Richard Milburn Academy/Texas, Inc. Ethics, Conflict of Interest and Nepotism Policy.

_____

_____

_____

_____

_____

□ I am involved in no activity, relationship, position or circumstance that could be considered an Interest or might be perceived as an actual or possible Conflict of Interest, as defined in the Richard Milburn Academy/Texas, Inc. Ethics, Conflict of Interest and Nepotism Policy. I do not have any familial relationships that would qualify as relationships within the prohibited degree as defined in the Richard Milburn Academy/Texas, Inc. Ethics, Conflict of Interest and Nepotism Policy.

I hereby certify that the information as set forth above is true and complete to the best of my knowledge. I have reviewed and agree to abide by the Richard Milburn Academy/Texas, Inc. Ethics, Conflict of Interest and Nepotism Policy that is currently in effect.

Signature: _____

Date: _____

PG-1.106 DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Sec. 1. SCOPE OF POLICY

The requirements in this policy shall apply to:

a. The members of the governing body of Richard Milburn Academy/Texas, Inc. and Richard Milburn Academy/Texas, Inc.;
b. The employees and agents of Richard Milburn Academy/Texas, Inc. and Richard Milburn Academy/Texas, Inc.; and
c. Any management company under contract with Richard Milburn Academy/Texas, Inc. or Richard Milburn Academy/Texas, Inc.

19 TAC § 100.1071(a).

Sec. 2. DEFINITIONS

a) "Person, corporation, or other legal entity"

This term includes:

a. Any individual who would have a substantial interest in the person, corporation, or other legal entity as that term is defined in Texas Government Code § 572.005(1)-(6);
b. An attorney, representative, registered lobbyist, employee, or other agent who receives payment for representing the interests of the person, firm, or corporation before the school board or its members, or whose duties are directly related to the contract, grant, or charter; or
c. An individual related within the first degree by affinity or consanguinity, as determined under Chapter 573, Government Code, to the person covered by item 2(a) above.

b) "Contract, grant, or charter"

This term means any application to enter into a contractual relationship with or otherwise receive funding from the State Board of Education, including without limitation contracts for investment advisors, consultants, or investment managers for the Permanent School Fund and applicants for charters to operate open-enrollment charter schools.

c) "Campaign contribution"

This term means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. Whether a contribution is made before, during, or after an election does not affect its status as a campaign contribution.

d) "Benefit"

This term means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

e) "Candidate for or a member of the State Board of Education"

This term includes a person related within the first degree of affinity or consanguinity, as determined under Chapter 573, Government Code, to a candidate for or a member of the State Board of Education.

State Board of Education Operating Rule § 4.3.

f) "Political advertising"

This term means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that:

1. In return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; or
2. Appears (i) in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication, or (ii) on an Internet website.

Elections Code § 251.001(16).

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SEC. 3. REQUIRED DISCLOSURES

a) Disclosing Campaign Contributions

Any person, corporation, or other legal entity associated with Richard Milburn Academy/Texas, Inc. which proposes to enter into a contract with or applies for a grant, contract, or charter which may be granted by the State Board of Education shall disclose whether, at any time in the preceding four years, the person, corporation, or other legal entity has made a campaign contribution to a candidate for or member of the State Board of Education. This disclosure shall be made in writing to the Commissioner of Education at least 14 days prior to consideration by the applicable board or committee of a contract, grant, or charter.

b) Disclosing Gifts

A person, corporation, or other legal entity associated with Richard Milburn Academy/Texas, Inc. which proposes to enter into a contract with or applies for a grant, contract, or charter which may be granted by the State Board of Education shall disclose in the same manner any benefit conferred on a candidate for or member of the State Board of Education during the preceding four years. A benefit need not be disclosed if the aggregate value of benefits conferred on a candidate for or a member of the State Board of Education during the preceding four years does not exceed $250, or a different limit set by Texas Government Code § 572.023(b)(7). This requirement applies whether or not the person, corporation, or other legal entity is required to report the expenditure to the Texas Ethics Commission.

For purposes of this section, a benefit is not conferred if the candidate for or a member of the State Board of Education has paid for the member's own participation, as well as any participation by other persons for the direct benefit of any business in which the member has a substantial interest as defined under Texas Government Code § 572.005 (1) - (7).

c) Continued Duty of Reporting

A person, corporation, or other legal entity has a continuing duty to report contributions or expenditures made through the term of a contract, grant, or charter and shall, within 21 calendar days, notify the Commissioner of Education and Richard Milburn Academy/Texas, Inc. board chair upon making a contribution or expenditure covered by this policy.

State Board of Education Operating Rule § 4.3.

SEC. 4. PROHIBITION OF POLITICAL ADVERTISING

Richard Milburn Academy/Texas, Inc. prohibits the expenditure by the charter holder, charter school, or its management company (if any) for any political advertising as defined above, and as interpreted by the advisory opinions of the Texas Ethics Commission. *19 TAC § 100.1071(b).*

PG-1.107 GIFT ACCEPTANCE

Sec. 1. PURPOSE

As a not-for-profit organization organized under the laws of the State of Texas and exempt as a public charity under Section 501(c)(3) of the Internal Revenue Code, Richard Milburn Academy/ Texas, Inc. encourages the solicitation and acceptance of gifts for purposes that will assist Richard Milburn Academy/Texas, Inc. to further and fulfill its mission.

The purpose of this Policy is to govern the acceptance of gifts by Richard Milburn Academy/ Texas, Inc. and to provide guidance to the Board, the Superintendent, and prospective donors when making gifts to Richard Milburn Academy/ Texas, Inc. The provisions of this Policy shall apply to all gifts received by Richard Milburn Academy/ Texas, Inc. for any of its schools, programs or services, and to the acceptance of gifts made to Richard Milburn Academy/ Texas, Inc. or for the benefit of any of its schools or programs.

Sec. 2. RESTRICTIONS ON GIFTS

Richard Milburn Academy/ Texas, Inc. will accept unrestricted gifts, and gifts for specific schools, programs and purposes, provided that such gifts are consistent with Richard Milburn Academy/ Texas, Inc.'s mission, purposes, and priorities. Richard Milburn Academy/ Texas, Inc. will not accept gifts that are too restrictive in purpose. Gifts that are too restrictive are those that violate the charitable and educational trust of Richard Milburn Academy/ Texas, Inc., or that are accompanied by an improper economic benefit to the donor or vest the donor with inappropriate

control or influence. The Board shall make all final decisions on the restrictive nature of a gift and its acceptance or refusal.

Sec. 3. GIFT ACCEPTANCE COMMITTEE

The Board may establish a Gift Acceptance Committee of the Board to review gifts made to Richard Milburn Academy/ Texas, Inc. and to carry out certain terms of this Policy. The Gift Acceptance Committee may be charged with the responsibility of reviewing all gifts made or proposed to be made to Richard Milburn Academy/ Texas, Inc., properly reviewing those gifts, and making recommendations to the Board on gift acceptance and related issues.

Sec. 4. USE OF LEGAL COUNSEL AND OTHER PROFESSIONAL ASSISTANCE

Richard Milburn Academy/ Texas, Inc. shall seek the advice of legal counsel or other professional advisors (such as an accountant, financial advisor or professional money manager) when appropriate and as recommended in this Policy relating to the acceptance of certain types of gifts. Generally, Richard Milburn Academy/Texas, Inc., shall seek the advice of legal counsel in all matters pertaining to the acceptance of any gift which may have adverse legal, ethical (including a potential conflict of interest), or other consequence of concern to Richard Milburn Academy/ Texas, Inc.

All prospective donors shall be urged and encouraged by Richard Milburn Academy/ Texas, Inc. to seek and secure the assistance of independent legal, tax and financial advisors in matters relating to their gifts and the resulting tax and estate planning implications. Richard Milburn Academy/ Texas, Inc. shall not pay the legal fees or any professional fees of the donor in connection with a gift to Richard Milburn Academy/ Texas, Inc. Richard Milburn Academy/ Texas, Inc., shall not provide any opinion, statement or recommendation to the donor as to the tax deductibility of the gift or as to any tax consequences or tax implications of the gift that may affect the donor.

It shall be the responsibility of the donor to secure an appraisal of property where required. The donor shall pay any fees associated with securing such appraisal.

Sec. 5. TYPES OF GIFTS

The following types of gifts are generally acceptable:

1. Cash Donations
2. Testamentary Bequests
3. Charitable Remainder Trusts
4. Charitable Lead Trusts
5. Tangible Personal Property
6. Oil, Gas and Mineral Interests
7. Life Insurance/Life Insurance Beneficiary Designations
8. Retirement Plan Beneficiary Designations
9. Securities

10. Real Estate

The following types of gifts are generally not acceptable:

1. Charitable gift annuities
2. Pooled income funds

Sec. 6. CRITERIA FOR CERTAIN TYPES OF GIFTS

The criteria below govern the acceptance of each type of gift. Unless indicated otherwise, each type of gift is subject to prior review by the Board and/or the Gift Acceptance Committee.

1. Cash or Cash Equivalents: Cash is acceptable in any form. Checks shall be made payable to "Richard Milburn Academy/ Texas, Inc." or "Richard Milburn Academy" and shall be delivered to the Superintendent at the Richard Milburn Academy administrative office.

2. Charitable Pledge Agreements: Acceptable if payable only in acceptable form as set forth in this Policy. Pledges payable over more than one year shall generally not be acceptable unless at least $1,000.00.

3. Securities: Both publicly traded securities and marketable closely held securities are acceptable upon review by Board and/or the Gift Acceptance Committee and legal counsel. Review and recommendation by an outside financial professional or money manager may be sought prior to acceptance of the gift. Marketable securities may be transferred to an account maintained at one or more brokerage firms or delivered physically with the transferor's signature or stock power attached. As a general rule, Richard Milburn Academy/ Texas, Inc. shall promptly sell all securities upon receipt.

4. Closely Held Securities; Other Intangibles: Richard Milburn Academy/ Texas, Inc. shall not accept securities and other intangible assets (such as interests in LLPs and LLCs or other ownership forms) that may not be sold or transferred, that have no value, are not marketable, or that may generate additional liability or undesirable tax or other consequences for Richard Milburn Academy/ Texas, Inc. Review and recommendation by legal counsel and/or a financial professional should be sought before making a final decision on acceptance of closely held securities or other intangibles as a gift.

5. Tangible Personal Property: Gifts of tangible personal property are often called "in-kind" gifts and include gifts such as supplies, equipment, furniture, printed materials, books, food, software, motor vehicles and artwork. Gifts of tangible personal property will be examined as follows:

    a) Will the property be used by Richard Milburn Academy/ Texas, Inc. in furtherance of its mission?
    b) Is the property marketable?
    c) Are there restrictions on the use, display or disposition of the property?
    d) Are there carrying costs of the property?

Richard Milburn Academy/ Texas, Inc. shall not value or offer to value the property. The donor shall sign a statement of ownership and disclose any liens on the property. Richard Milburn Academy/ Texas, Inc. shall not accept any property subject to a restriction on its ability to use, sell or otherwise dispose of the property as it deems necessary.

6. Life Insurance Policy/Beneficiary Designation: Richard Milburn Academy/ Texas, Inc. may accept the gift of a life insurance policy, provided Richard Milburn Academy/ Texas, Inc. is named as both the owner of the policy and irrevocable beneficiary of the policy prior to acceptance of the gift. Beneficiary designations shall not be recorded as gifts to Richard Milburn Academy/ Texas, Inc. unless and until the gift is irrevocable. Where the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable. If the policy is not fully paid-up and the donor does not continue to make gifts to cover premium payments on the policy, Richard Milburn Academy/ Texas, Inc. shall have the right to continue to pay the premiums, convert the policy to paid-up insurance, surrender the policy for its current cash value, or otherwise make use of its value.

7. Real Estate. Richard Milburn Academy/ Texas, Inc. will not accept any real estate subject to a restriction on Richard Milburn Academy/ Texas, Inc.'s ability to use, sell or otherwise dispose of or deal with the property as it deems necessary. Prior to the acceptance of real estate, Richard Milburn Academy/ Texas, Inc., shall require an initial environmental review of the property by a qualified environmental review firm to ensure that the property has no environmental damage or liabilities. In the event that the initial review reveals a potential problem or concern, the organization may retain a qualified environmental review firm to conduct an environmental audit. The cost of the environmental review and any environmental audit shall be the expense of the donor. Appraisal costs are the responsibility of the donor.

   A title report or abstract of title shall be obtained by Richard Milburn Academy/ Texas, Inc. prior to the acceptance of the real property gift. Criteria for acceptance of the property shall include:

   a) A review of a complete profile of the property, including the title report and environmental review or audit, inspection reports, the deed, any encumbrances, leases, and tax bills.
   b) A review of the carrying costs, sale and holding costs of the property, such as insurance, property taxes, mortgages, notes, etc.
   c) A review of the restrictions, reservations, easements or other limitations on the property.
   d) A review of the use of the property for Richard Milburn Academy/ Texas, Inc.'s purposes.
   e) A review of a recent appraisal of the property and consultation with a real estate advisor as to marketability of the property.

8. Oil, Gas and Mineral Interests: Richard Milburn Academy/ Texas, Inc. may accept oil and gas property interests upon review by Board and/or the Gift Acceptance Committee and legal counsel. The property shall undergo an environmental review by an environmental firm. The property should be reviewed for liabilities or other considerations (such as undesirable tax consequences or valuation issues for working interests) that might make receipt of the gift inappropriate.

9. Charitable Remainder Trusts: Richard Milburn Academy/ Texas, Inc. may accept designation as remainder beneficiary of a charitable remainder trust upon the review by the Board and/or the Gift Acceptance Committee and legal counsel. Richard Milburn Academy/ Texas, Inc. will not accept appointment as a trustee of a charitable remainder trust.

10. Charitable Lead Trusts: Richard Milburn Academy/ Texas, Inc. may accept designation as income beneficiary of a charitable lead trust upon review by the Board and/or the Gift Acceptance Committee and legal counsel. Richard Milburn Academy/ Texas, Inc. will not accept appointment as trustee of a charitable remainder trust.

11. Retirement Plan Beneficiary Designations: Donors and supporters of Richard Milburn Academy/ Texas, Inc. are encouraged to name Richard Milburn Academy/ Texas, Inc. as a beneficiary of a retirement plan. Such designations shall not be recorded as gifts unless and until the gift is irrevocable. When the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

12. Bequests: Donors and supporters of Richard Milburn Academy/ Texas, Inc. are encouraged to make bequests to Richard Milburn Academy/ Texas, Inc. under their wills and trusts. Such bequests will not be recorded as gifts unless and until the gift is irrevocable. When the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

Sec. 7. ACCEPTANCE OF GIFT BY THE SUPERINTENDENT

Subject to the terms of this Policy, the Superintendent shall have discretion and authority to accept (i) unrestricted gifts of a value up to $1,000.00 and (ii) restricted gifts of a value up to $5,000.00. Only the Board may accept gifts above those amounts.

Sec. 8. VALUATION OF GIFTS

Richard Milburn Academy/ Texas, Inc. shall record a gift received by Richard Milburn Academy/ Texas, Inc.at its valuation for gift purposes on the date of gift and accordance with Generally Accepted Accounting Principles ("GAAP").

Sec. 9. IRS FILING UPON SALE OF GIFT

Richard Milburn Academy/ Texas, Inc. is responsible for filing IRS Form 8282 upon the sale or

disposition of any asset sold by Richard Milburn Academy/ Texas, Inc. within two years of receipt where the charitable deduction value of the item was $5,000.00 or greater. Richard Milburn Academy/ Texas, Inc. must file such form within 125 days of the date of sale or disposition of the asset. The Chief Financial Officer shall be responsible for the recordation and filing of this form to the IRS.

Sec. 10. WRITTEN ACKNOWLEDGMENT OF GIFTS AND CONTRIBUTIONS

Written Acknowledgement of all gifts made to Richard Milburn Academy/ Texas, Inc. and compliance with the current IRS requirements in acknowledgement of such gifts shall be the responsibility of the Board. The Chief Financial Officer shall be responsible for ensuring compliance with IRS requirements regarding acknowledgments.

Sec. 11. CONFIDENTIALITY

Richard Milburn Academy/ Texas, Inc. shall hold all information concerning donors or potential donors in strict confidence, subject to requests for information that Richard Milburn Academy/ Texas, Inc.is required by law or court order to provide. Richard Milburn Academy/ Texas, Inc. shall not release information about donors or the gift that is not otherwise public information unless permission from the donor is obtained. Richard Milburn Academy/ Texas, Inc. will respect the confidentiality of donors who do not wish to be recognized.

Sec. 12. REVIEW OF POLICY; CHANGES TO POLICY

The Board shall review this Policy on a periodic basis (but no less than five years) or, if applicable, the Gift Acceptance Committee shall periodically review and recommend changes to this Policy for approval and adoption by the Board.

PG-1.201 BOARD MEETINGS

PART I: BOARD MEETINGS IN GENERAL

Sec. 1. DEFINITIONS

a) Deliberation

"Deliberation" means a verbal or written exchange between a quorum of the Board, or between a quorum of the Board and another person, concerning an issue within the jurisdiction of the Board. *Gov't Code 551.001(2)*.

b) Meeting

"Meeting" means a deliberation among a quorum of the Board, or between a quorum of the Board and another person, during which public business or public policy over which the Board has supervision or control is discussed or considered, or during which the Board takes formal action. "Meeting" also means a gathering:

1. That is conducted by the Board or for which the Board is responsible;
2. At which a quorum of members of the Board is present;
3. That has been called by the Board; and
4. At which Board members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of Richard Milburn Academy, about the public business or public policy over which the Board has supervision or control.

Gov't Code 551.001(4)

A communication or exchange of information between Board members about public business or public policy over which the Board has supervision or control does not constitute a meeting or deliberation for purposes of the Texas Open Meetings Act if the communication is posted to an online message board or similar Internet application in compliance with Government Code 551.006. *Gov't Code 551.006*.

The term "meeting" does not include:

1. The gathering of a quorum of the Board at a social function unrelated to the public business that is conducted by the Board;
2. The attendance by a quorum of the Board at a regional, state, or national convention or workshop, ceremonial event, or press conference; or
3. The attendance by a quorum of the Board at a candidate forum, appearance, or debate to inform the electorate, if formal action is not taken and any discussion of public business is incidental to the social function, convention, workshop, ceremonial event, press conference, forum, appearance, or debate.

Gov't Code 551.001(4).

The attendance by a quorum of the Board at a meeting of a committee or agency of the legislature is not considered to be a meeting if the deliberations at the meeting by the Board members consist only of publicly testifying, publicly commenting, and publicly responding to a question asked by a member of the legislative committee or agency. *Gov't Code 551.0035(b)*.

c) Recording

"Recording" means a tangible medium on which audio or a combination of audio and video is recorded, including a disc, tape, wire, film, electronic storage drive, or other medium now existing or later developed. *Gov't Code 551.001(7)*.

d) Videoconference Call

"Videoconference call" means a communication conducted between two or more persons in which one or more of the participants communicates with the other participants through duplex audio and video signals transmitted over a telephone network, a data network, or the Internet. *Gov't Code 551.001(8).*

Sec. 2. MEETINGS OPEN TO THE PUBLIC; TIMING OF MEETINGS

Every regular or special meeting of the board shall be held outside of typical work hours and be open to the public. Gov't Code 551.002; Educ. Code 26.0071.

Sec. 3. PROHIBITED COMMUNICATIONS BETWEEN BOARD MEMBERS

A Board member commits an offense if the member:

1. Knowingly engages in at least one communication among a series of communications that each occur outside of a meeting authorized by the Open Meetings Act and that concern an issue within the jurisdiction of the Board in which the members engaging in the individual communications constitute fewer than a quorum of members, but the members engaging in the series of communications constitute a quorum of members; and
2. Knew at the time the member engaged in the communication that the series of communications:
    a. Involved or would involve a quorum; and
    b. Would constitute a deliberation once a quorum of members engaged in the series of communications.

Gov't Code 551.143.

Sec. 4. RECORDING OF MEETING BY SOMEONE IN ATTENDANCE

All or any part of an open meeting may be recorded by any person in attendance by means of a recorder, video camera, or other means of aural or visual reproduction. The Board may adopt reasonable rules to maintain order at a meeting, including rules relating to the location of recording equipment and the manner in which the recording is conducted. These rules may not prevent or unreasonably impair a person from exercising the right to record a meeting that is open to the public. *Gov't Code 551.023*.

Sec. 5. NOTICE REQUIRED

The Board shall give written notice of the date, hour, place, and subject(s) of each Board meeting. *Gov't Code 551.041.*

If the Board recesses an open meeting to the following regular business day, the Board is not required to post notice of the continued meeting if the action is taken in good faith and not to circumvent Government Code Chapter 551. If an open meeting is continued to the following regular business day and, on that following day, the Board continues the meeting to another day, the Board must give the required written notice of the meeting continued to that other day. *Gov't Code 551.0411(a)*.

a) Questions from the Public During Meeting

If a member of the public or the Board inquires at a meeting about a subject for which notice has not been given, the notice provisions do not apply to a statement of specific factual information given in response to the inquiry or a recitation of existing policy in response to the inquiry. Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda of a subsequent meeting. *Gov't Code 551.042*.

b) Time of Notice and Accessibility; Internet Posting of Agenda/Notice

Notice of a Board meeting shall be posted on a bulletin board at a place convenient to the public in the Central Administration Office for at least three (3) business days before the scheduled date of the meeting. That notice or a notice posted at another Board-designated place shall at all times be readily accessible to the public for at least three (3) business days before the scheduled date of the meeting. *Gov't Code 551.043(a), .051*.

Additionally, the Board must concurrently post notice of a meeting on the Internet website, as well as a copy of the agenda for the meeting, if the agenda differs from the posted notice. Richard Milburn Academy satisfies the requirement that the notice must be posted in a place readily accessible to the general public at all times by making a good-faith attempt to continuously post the notice on the Internet during the prescribed period. The validity of a posting by Richard Milburn Academy in a good-faith attempt to comply with the Internet posting requirements is not affected by a failure to comply that is due to a technical problem beyond Richard Milburn Academy's control. Gov't Code 551.056.

Richard Milburn Academy must still comply with the duty to physically post the notice in the Central Administration Office, and if Richard Milburn Academy makes a good-faith attempt to continuously post the notice on the Internet during the prescribed period, the physically posted notice must be readily accessible to the general public during normal business hours. *Gov't. Code 551.043(b)*.

c) Specificity of Agenda/Notice

Agendas for all meetings shall be sufficiently specific to inform the public of the subjects to be deliberated at the meeting, setting out any special or unusual matters to be considered or any matter in which the public has a particular interest. Deliberations or actions pertaining to the Superintendent and principals are of particular public interest, and notice of those subjects must be worded with such clarity that the public will understand what the Board proposes to discuss or accomplish.

The terms "employee briefing" or "staff briefing" do not give adequate notice of the subject matter to be presented to the Board by employees or staff members.

The subject of a report or update by Richard Milburn Academy staff or a Board member must be set out in the notice in a manner that informs a reader about the subjects to be addressed.

d) Required Notice for Budget-related Items

Public notice for meetings involving budget discussion or adoption must also include a physical copy of the proposed budget, unless the school has made the proposed budget clearly accessible on the home page of the school's Internet website. Richard Milburn Academy must ensure this budget information is publicly available through one or both means. Gov't Code 551.043(c)

e) Emergency Meeting or Emergency Agenda Additions

In an emergency or when there is an urgent public necessity, the notice of a meeting to deliberate or take action on the emergency or urgent public necessity, or the supplemental notice to add the deliberation or taking action on the emergency or urgent public necessity as an item to the agenda for a meeting for which notice has been posted in accordance with the Open Meetings Act is sufficient if the notice or supplemental notice is posted for at least one hour before the meeting is convened.

The Board may not deliberate or take action on a matter at a meeting for which notice or supplemental notice is posted other than:

1. A matter directly related to responding to the emergency or urgent public necessity identified in the notice or supplemental notice of the meeting; or
2. An agenda item listed on a notice of the meeting before the supplemental notice was posted.

An emergency or urgent public necessity exists only if immediate action is required because of:

1. An imminent threat to public health and safety, including a threat described in item 2 below, if imminent; or
2. A reasonably unforeseeable situation, including:
   a. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
   b. Power failure, transportation failure, or interruption of communication facilities;
   c. Epidemic; or
   d. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

The Board shall clearly identify the emergency or urgent public necessity in the notice of an emergency meeting or supplemental notice.

The sudden relocation of a large number of residents from the area of a declared disaster within Richard Milburn Academy's geographic boundaries is considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation.
Gov't Code 551.045.

f) Catastrophe

If the Board is prevented from convening an open meeting that was otherwise properly posted under Government Code Section 551.041 because of a catastrophe, the Board may convene the meeting in a convenient location within 72 hours pursuant to Government Code Section 551.045

if the action is taken in good faith and not to circumvent Government Code Chapter 551. If the Board is unable to convene the open meeting within those 72 hours, the Board may subsequently convene the meeting only if the board gives the required written notice of the meeting.

"Catastrophe" means a condition or occurrence that interferes physically with the ability of the Board to conduct a meeting, including:

1. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
2. Power failure, transportation failure, or interruption of communication facilities;
3. Epidemic; or
4. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

Gov't Code 551.0411(b), (c).

g) Notice to News Media

Richard Milburn Academy shall provide special notice of each meeting by telephone, facsimile transmission, or electronic mail to any news media that has requested special notice and agreedto reimburse Richard Milburn Academy for the cost of providing the special notice. *Gov't Code 551.052*.

The Board President or other Board member who calls an emergency meeting or adds an emergency item to the agenda of a Board meeting shall notify the news media of the emergency meeting or emergency item. The Board President or other Board member is required to notify only those members of the news media that have previously filed a request containing all pertinent information for the special notice and agreed to reimburse Richard Milburn Academy for the cost of providing the special notice. The Board President or other Board member shall give the notice by telephone, fax transmission, or electronic mail at least one hour before the meeting is convened. *Gov't Code 551.047*.

Sec. 6. QUORUM

A majority of the Board constitutes a quorum for meetings. *Gov't Code 551.001(6)*.

Sec. 7. SECRET BALLOT

No vote shall be taken by secret ballot.

Sec. 8. MEETING BY TELEPHONE CONFERENCE CALL

The Board may hold a meeting by telephone conference call if an emergency or public necessity exists within the meaning of Government Code 551.045 and the convening at one location of a

quorum of the Board is difficult or impossible, or if the meeting is held by an advisory board.

Each part of the telephone conference call meeting that is required to be open shall be audible to the public at the location specified in the notice of the meeting. The location designated in the notice as the location of the meeting shall provide two-way communication during the entire telephone conference call meeting and the identification of each party to the telephone conference shall be clearly stated prior to speaking.

a) Notice

The telephone conference call meeting is subject to the notice requirements applicable to other meetings. The notice must specify as the location of the meeting the location where Board meetings are usually held.

b) Recording

The conference call meeting shall be recorded and made available to the public.

Gov't Code 551.125.

Sec. 9. MEETING BY VIDEOCONFERENCE CALL

A Board member or Richard Milburn Academy employee may participate remotely in a Board meeting by means of a videoconference call if the video and audio feed of the Board member's or employee's participation, as applicable, is broadcast live at the meeting and complies with the provisions below. A Board member who participates by videoconference call shall be counted as present at the meeting for all purposes. A Board member who participates in a meeting by videoconference call shall be considered absent from any portion of the meeting during which audio or video communication with the Board member is lost or disconnected. The Board may continue the meeting only if a quorum remains present at the meeting location or, if applicable, continues to participate in a meeting conducted as specified in **Multiple Counties**, below. *Gov't Code 551.001(8), .127(a-1) -(a-3)*.

a) Requirement for Quorum

A Board meeting may be held by videoconference call only if a quorum of the board is physically present at one location of the meeting, except as provided at **Multiple Counties**, below.

b) Multiple Counties

If Richard Milburn Academy extends into three or more counties, a Board meeting may be held by videoconference call only if the Board member presiding over the meeting is physically present at one location of the meeting that is open to the public during the open portions of the meeting.

c) Notice of Videoconference Meeting

A meeting held by videoconference call is subject to the notice requirements applicable to other meetings in addition to the notice requirements applicable to meetings by videoconference call.

The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where a quorum of the Board will be physically present and specify the intent to have a quorum present at that location; the notice of a meeting held by videoconference call described above at "Multiple Counties" must specify as a location of the meeting the location where the Board member presiding over the meeting will be physically present and specify the intent to have the presiding officer present at that location.

Gov't Code 551.127(b)-(e).

d) Quality of Audio and Video Signals During Videoconference Meetings

Each portion of a meeting held by videoconference call that is required to be open to the public shall be visible and audible to the public at the location specified in the notice. If a problem occurs that causes a meeting to no longer be visible and audible to the public at that location, the meeting must be recessed until the problem is resolved. If the problem is not resolved in six hours or less, the meeting must be adjourned.

The location specified in the notice, and each remote location from which a member of the board participates, shall have two-way audio and video communication with each other location during the entire meeting. The face of each participant in the videoconference call, while that participant is speaking, shall be clearly visible, and the voice audible, to each other participant and, during the open portion of the meeting, to the members of the public in attendance at the physical location described by the notice and at any other location of the meeting that is open to the public.

The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed standards specified by the Texas Department of Information Resources. The audio and video signals perceptible by members of the public at the location of the meeting described by the notice and each remote location from which a Board member participates must be of sufficient quality so that members of the public at each location can observe the demeanor and hear the voice of each participant in the open portion of the meeting.

Gov't Code 551.127(f), (h)-(j).

e) Recording Meetings by Videoconference

The Board shall make at least an audio recording of the meeting; the recording shall be made available to the public.

f) Public Participation During Meetings by Videoconference

The Board may allow a member of the public to testify at a meeting from a remote location by

videoconference call even if a Board member is not participating in the meeting from a remote location.

Gov't Code 551.127(g), (k).

Sec. 10. MEETING MINUTES AND BOARD RESOLUTIONS; MEETING RECORDING

The Board shall keep minutes of each open meeting, and the minutes must be made publicly accessible in accordance with the public information act. The minutes of a regular or special meeting of the board must reflect each board member's attendance or absence from the meeting, as well as any vote on any item that is voted on at the meeting. A draft of the meeting minutes shall be posted on the school's Internet website not later than the seventh day after the date of a meeting at which a quorum of the board is present and voting. A final copy of the meeting minutes shall replace the draft version, upon subsequent approval by the Board. Any resolution adopted by the board must be posted on the school's Internet website not later than the seventh day after the date of the meeting at which the resolution was adopted.

Richard Milburn Academy shall record the open session of each regular or special meeting of the board and a copy of the recording shall be made publicly accessible through the public information act.

Sec. 11. ATTORNEY CONSULTATION

The Board may use a telephone conference call, videoconference call, or communications over the Internet to conduct a public consultation with its attorney in an open meeting of the Board or a private consultation with its attorney in a closed meeting.

Each part of a public consultation by the Board with its attorney in an open meeting must be audible to the public at the location specified in the notice of the meeting as the location of themeeting.

This does not apply to a consultation with an attorney who is an employee of Richard Milburn Academy. An attorney who receives compensation for legal services performed, from which employment taxes are deducted by Richard Milburn Academy, is an employee of the Richard Milburn Academy.

Gov't Code 551.129.

Sec. 12. HEARING-IMPAIRED PERSONS

In a proceeding before the Board in which the legal rights, duties, or privileges of a party are to be determined by the Board after an adjudicative hearing, the Board shall supply for a party who is deaf or hearing impaired an interpreter who has qualifications approved by the Texas Department of Assistive and Rehabilitative Services.

For purposes of this requirement, "deaf or hearing impaired" means having a hearing impairment, regardless of the existence of a speech impairment, that inhibits comprehension of a proceeding or inhibits communication with others.

Gov't Code 558.001, .003.

PART II: CLOSED MEETINGS

Sec. 1. AUTHORIZATION TO CONVENE IN CLOSED/EXECUTIVE SESSION

The Board may conduct a closed meeting for the purposes described in Subchapter D, Chapter 551, Texas Government Code, including but not limited to:

1. Consultation with the Board's attorney in accordance with Gov't Code § 551.071;
2. Deliberations regarding the purchase, exchange, lease, or value of real property in accordance with Gov't Code § 551.072;
3. Deliberations regarding a negotiated contract for a prospective gift or donation to Richard Milburn Academy/Texas, Inc. in accordance with Gov't Code § 551.073;
4. Deliberations regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a Richard Milburn Academy officer or employee or to hear a complaint against a Richard Milburn Academy officer or employee, in accordance with Gov't Code § 551.074;
5. Deliberations regarding the deployment, or specific occasions for implementation, of security personnel or devices or a security audit, in accordance with Gov't Code § 551.076;
6. Deliberations in matters involving certain information regarding insurance, health, or retirement plans, in accordance with Gov't Code 551.0785;
7. Deliberations in a case in which a complaint or charge is brought against a Richard Milburn Academy employee by another Richard Milburn Academy employee and the complaint or charge directly results in the need for a hearing in accordance with Gov't Code § 551.082;
8. Deliberations in a case involving discipline of a Richard Milburn Academy student in accordance with Gov't Code § 551.082;
9. Deliberations in a matter regarding a student if personally identifiable information about the student will necessarily be revealed by the deliberation in accordance with Gov't Code § 551.0821;
10. Excluding a witness from a hearing during the examination of another witness in an investigation in accordance with Gov't Code § 551.084;
11. Deliberations to discuss or deliberate regarding economic development negotiations in accordance with Gov't Code § 551.087;
12. Deliberations regarding security assessments or deployment relating to information resources technology; network security information as described by Gov't Code 2059.055(b); or the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices, in accordance with Gov't Code § 551.089; and
13. Deliberations to discuss or adopt individual assessment instruments or assessment instrument items in accordance with Education Code 39.030(a).

Sec. 2. PROCEDURES FOR CLOSED MEETINGS

If a closed meeting is allowed, the Board shall not conduct the closed meetingunless a quorum of the Board first convenes in an open meeting for which proper notice has been given and the presiding officer has publicly announced that a closed meeting will be held and has identified the section or sections of the Open Meetings Act or other applicable law under which the closed meeting is held. *Gov't Code 551.101*.

Sec. 3. VOTE OR FINAL ACTION IN OPEN SESSION

A final action, decision, or vote on a matter deliberated in a closed meeting shall be made only in an open meeting for which proper notice has been given. *Gov't Code 551.102*.

Sec. 4. CERTIFIED AGENDA OR RECORDING

The Board shall either keep a certified agenda or make a recording of the proceedings of each closed meeting, except for private consultation with the Board and/or Richard Milburn Academy's attorney. The certified agenda must include a statement of the subject matter of each deliberation, a record of any further action taken, and an announcement by the presiding officer at the beginning and end of the closed meeting indicating the date and time. A presiding officer shall certify that a certified agenda is a true and correct record of the proceedings. If a recording is made, it must include announcements by the presiding officer at the beginning and end of the meeting indicating the date and time. *Gov't Code 551.103*.

"Recording" means a tangible medium on which audio or a combination of audio and video is recorded, including a disc, tape, wire, film, electronic storage drive, or other medium now existing or later developed. *Gov't Code 551.001(7)*.

Closed meetings may not be recorded by an individual Board member against the wishes of a majority of the Board.

a) Preservation

The Board shall preserve the certified agenda or recording of a closed meeting for at least two years after the date of the meeting. If a legal action involving the meeting is brought within that period, the Board shall preserve the certified agenda or recording while the action is pending. *Gov't Code 551.104(a)*.

b) Public Access

A certified agenda or recording of a closed meeting is available for public inspection and copying only under a court order issued as a result of litigation involving an alleged violation of the Open Meetings Act. *Gov't Code 551.104(b), (c)*.

Sec. 5. PROHIBITIONS

No Board member shall participate in a closed meeting knowing that neither a certified agenda nor a recording of the closed meeting is being made. *Gov't Code 551.145*.

No individual, corporation, or partnership shall, without lawful authority, disclose to a member of the public the certified agenda or recording of a meeting that was lawfully closed to the public. *Gov't Code 551.146*.

No Board member shall knowingly call or aid in calling or organizing a closed meeting that is not permitted under the Open Meetings Act, close or aid in closing a regular meeting to the public except as permitted under the Open Meetings Act, or participate in a closed meeting that is not permitted under the Open Meetings Act. *Gov't Code 551.144(a)*.

It is an affirmative defense to prosecution under Government Code 551.144(a) that a Board member acted in reasonable reliance on a court order or a written interpretation of the open meetings law contained in an opinion of a court of record, the attorney general, or the Board's attorney. *Gov't Code 551.144(c)*.

PART III: PUBLIC PARTICIPATION IN BOARD MEETINGS

Sec. 1. RIGHT TO PUBLIC PARTICIPATION

Richard Milburn Academy/Texas, Inc. shall take no action abridging the freedom of speech or the right of people to petition the Board for redress of grievances. *U.S. Const. Amend. I, XIV.* Additionally, citizens shall have the right, in a peaceable manner, to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance. *Tex. Const. Art. I, Sec. 27.*

The Board may confine its meetings to specified subject matter, and may hold non-public sessions to transact business. When the Board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys. *Rosenberger v. Rector & Visitors of Univ. of Virginia, 515 U.S. 819 (1995); City of Madison v. Wis. Emp. Rel. Comm'n, 429 U.S. 167 (1976); Pickering v. Bd. of Educ., 391 U.S. 563 (1968).*

The Board may create a limited public forum for the purpose of hearing comments from the public, so long as:

1. The Board does not discriminate against speech on the basis of viewpoint;
2. Any restrictions are reasonable in light of the purpose served by the forum; and
3. The Board provides alternative paths for expressing categories of protected speech that are excluded from the forum.

Fairchild v. Liberty Indep. Sch. Dist., 597 F.3d 747 (5th Cir. 2010).

Sec. 2. PUBLIC COMMENT

The Board shall allow each member of the public who desires to address the Board regarding an item on an agenda for an open meeting of the Board to address the Board regarding the item at the meeting before or during the Board's consideration of the item. At all other times during a Board meeting, the audience shall not enter into discussion or debate on matters being considered by the Board, unless requested by the presiding officer.

Richard Milburn Academy's local policy is stated in the subsection below:

SECTION 2.1. **Speaker Sign Up**

Individuals who wish to provide public comment or testimony to the Board at the designated time during a Board meeting must sign up in advance of the Board meeting by submitting the Public Comment Sign Up Form located on the District's website. When an individual signs up, the individual must indicate whether the comment pertains to an item on the Board agenda and, if so, which item or items. An individual who will be accompanied by a translator must notify the District at the time of signup. If an agenda item is continued or posted again for a meeting on a later date, individuals who wish to address the Board on the item must sign up separately for that later date.

Should the individual not have an electronic method available, the Superintendent's Office should be contacted for additional options.

Written submissions to the Board are subject to public disclosure in accordance with the law.

a) Time Limits

The Board may adopt reasonable rules regarding the public's right to address the Board under this policy, including rules that limit the total amount of time that a member of the public may address the Board on a given item.

Richard Milburn Academy's local policy is stated in the subsection below:

SECTION 2.2 **Per-Speaker Time Limit**

A speaker will be given up to 3 minutes to address the Board. If, however, the total number of speakers seeking to address the Board at a meeting exceeds 10, the per-speaker time limit may be reduced. In no event will a speaker be given less than one minute to address the Board. A speaker who wishes to address multiple agenda items may be given an increased time limit as additional time to address the Board.

b) Additional Time for Translation

A member of the public who addresses the Board through a translator must be given at least twice the amount of time as a member of the public who does not require the assistance of a translator

in order to ensure that non-English speakers receive the same opportunity to address the Board. This requirement applies only if the Board does not use simultaneous translation equipment in a manner that allows the Board to hear the translated public testimony simultaneously.

c) Public Criticism

The Board may not prohibit public criticism of the Board, including criticism of any act, omission, policy, procedure, program, or service. This does not apply to public criticism that is otherwise prohibited by law.

Gov't Code § 551.007.

d) Board's Response

Specific factual information or recitation of existing policy may be furnished in response to inquiries during public comment, but the Board shall not deliberate or decide regarding any subject that is not included on the agenda posted with notice of the meeting.

Sec. 3. COMPLAINTS AND CONCERNS

The presiding officer or designee shall determine whether a person addressing the Board has attempted to solve a matter administratively through resolution channels established by policy. If not, the person shall be referred to the appropriate policy (see list below) to seek resolution:

Employee complaints: Board Policy Module 4 – Human Resources and Personnel Handbook (Employee Complaints and Grievances – General).

Student or parent complaint: Board Policy Module 3 – Students PG-3.5 (Parent and Student Complaints and Grievances – General).

Complaints alleging discrimination, harassment, and/or retaliation: Board Policy Module 4 – Human Resources (Freedom from Discrimination, Harassment, and Retaliation); Board Policy Module 3 - Students PG-3.1 (Freedom from Discrimination, Harassment, and Retaliation); Board Policy Module 3 PG-3.2 (Sexual Harassment).

Complaints concerning identification, evaluation, or educational placement of a student with a disability within the scope of Section 504: Board Policy PG-3.5 §4 (Parent and Student Complaints and Grievances), subject to the time limitations referenced in Board Policy PG-3.1§1 (Equal Educational Opportunity).

Complaints concerning identification, evaluation, educational placement, or discipline of a student with a disability within the scope of the Individuals with Disabilities Education Act. Board Policy PG-3.1 §1 (Equal Educational Opportunity) and Board Policy PG-3.5 §9 (Parent and

Student Complaints and Grievances).

Public complaints: Board Policy Module 1 – Governance PG- 1.205 (Public Complaints).

Sec. 4. DISRUPTION

The Board shall not tolerate disruption of the meeting by members of the audience. If, after at least one warning from the presiding officer, any person continues to disrupt the meeting by his or her words or actions, the presiding officer may request assistance from law enforcement officials to have the person removed from the meeting.

PG-1.202 PUBLIC INFORMATION REQUESTS

Sec. 1. GENERAL PROVISIONS

a) Public Information Defined

For purposes of the Texas Public Information Act ("TPIA"), "public information" means information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

1. By the Board;
2. For the Board and the Board:
   a. Owns the information;
   b. Has a right of access to the information; or
   c. Spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or
3. By an individual officer or employee of Richard Milburn Academy in the officer's or employee's official capacity and the information pertains to official business of Richard Milburn Academy.

"Official business" means any matter over which Richard Milburn Academy has any authority, administrative duties, or advisory duties.

Information is "in connection with the transaction of official business" if the information is created by, transmitted to, received by, or maintained by an officer or employee of Richard Milburn Academy in the officer's or employee's official capacity, or a person or entity performing official business or a governmental function on behalf of Richard Milburn Academy, and pertains to official business of Richard Milburn Academy.

The definition of "public information" applies to and includes any electronic communication created, transmitted, received, or maintained on any device if the communication is in connection with the transaction of official business.

b) Forms of Public Information

The general forms in which the media containing public information exist include a book, paper, letter, document, e-mail, Internet posting, text message, instant message, other electronic communication, printout, photograph, film, tape, microfiche, microfilm, photostat, sound recording, map, and drawing and a voice, data, or video representation held in computer memory.

The media on which public information is recorded include:

1. Paper;
2. Film;
3. A magnetic, optical, solid state, or other device that can store an electronic signal;
4. Tape;
5. Mylar; and
6. Any physical material on which information may be recorded, including linen, silk, and vellum.

c) Business Day Defined

For purposes of Richard Milburn Academy/ Texas, Inc. compliance with the TPIA, the term "business day" means a day other than:

1. a Saturday or Sunday;
2. a national holiday under the Government Code 66.003(a); or
3. a state holiday under the Government Code 662.003(b).

The fact that an employee works from an alternative work site does not affect whether a day is considered a business day under this policy.

If Richard Milburn Academy/ Texas, Inc. officer for public information observes the days on which Rosh Hashanah, Yom Kippur, or Good Friday fall, such day(s) shall not be considered a business day under this policy.

The Friday before or Monday after a national holiday or state holiday is not a business day if the holiday occurs on a Saturday or Sunday and Richard Milburn Academy/ Texas, Inc. observes the holiday on that Friday or Monday.

The Board may designate a day on which Richard Milburn Academy/ Texas, Inc. administrative offices are closed or operating with minimum staffing as a nonbusiness day for purposes of the TPIA. The Board may designate not more than 10 nonbusiness days under this section each calendar year.

Gov't Code 552.0031.

Sec. 2. PRESERVATION OF INFORMATION

The Board may determine a time for which information that is not currently in use will be preserved, subject to any applicable law or rule governing the destruction and other disposition of state and local government records or public information.

The provisions of Chapter 441, Government Code and Title 6, Local Government Code, governing the preservation, destruction, or other disposition of records or public information apply to records and public information held by a temporary custodian.

Gov't Code 552.004(a), (c).

a) Temporary Custodians

For purposes of the TPIA, a "temporary custodian" means an officer or employee of Richard Milburn Academy who, in the transaction of official business, creates or receives public information that the officer or employee has not provided to the officer for public information or the officer's agent. The term includes a former officer or employee who created or received public information in the officer's or employee's official capacity that has not been provided to the officer for public information or the officer's agent.

A current or former Board member, officer, or employee of Richard Milburn Academy does not have, by virtue of the individual's position or former position, a personal or property right to public information the individual created or received while acting in an official capacity.

A temporary custodian with possession, custody, or control of public information shall surrender or return the information to Richard Milburn Academy not later than the 10th day after the date the officer for public information requests the temporary custodian to surrender or return the information.

A temporary custodian's failure to surrender or return public information as requested by the officer for public information is grounds for disciplinary action by Richard Milburn Academy, or any other applicable penalties authorized by the TPIA or other law.

Gov't Code § 552.003(7).

b) Calculating Timelines

For purposes of requesting an Attorney General determination related to surrendered or returned to Richard Milburn Academy by a temporary custodian, Richard Milburn Academy is considered to have received the request for that information on the date the information is surrendered or returned to Richard Milburn Academy. *Gov't Code 552.233*.

Sec. 3. ONLINE MESSAGE BOARD

If the Board maintains an online message board or similar Internet application under Government Code 551.006, and the Board removes from the online message board or similar Internet

application a communication that has been posted for at least 30 days, the Board shall maintain the posting for a period of six years. This communication is public information and must be disclosed in accordance with the TPIA. *Gov't Code § 551.006(d)*.

Sec. 4. AVAILABILITY OF PUBLIC INFORMATION

Public information is available to the public, at a minimum, during Richard Milburn Academy's normal business hours.

Sec. 5. OFFICER FOR PUBLIC INFORMATION AND REQUIRED NOTICES

a) Officer for Public Information

The Superintendent or designee shall be Richard Milburn Academy's officer for public information. Each department head shall be an agent of the officer for purposes of complying with the TPIA.

The officer for public information is responsible for the release of public information as required by the TPIA, Government Code Chapter 552. The officer for public information shall:

1. Make public information available for public inspection and copying.
2. Carefully protect public information from deterioration, alteration, mutilation, loss, or unlawful removal.
3. Repair, renovate, or rebind public information when necessary to maintain it properly.
4. Make reasonable efforts to obtain public information from a temporary custodian if:
   a. The information has been requested from Richard Milburn Academy;
   b. The officer for public information is aware of facts sufficient to warrant a reasonable belief that the temporary custodian has possession, custody, or control of the information;
   c. The officer for public information is unable to comply with the duties imposed by the TPIA without obtaining the information from the temporary custodian; and
   d. The temporary custodian has not provided the information to the officer for public information or the officer's agent.

The officer for public information is not responsible for the use made of the information by the requestor or the release of information after it is removed from a record as a result of an update, correction, or change of status of the person to whom the information pertains.

Gov't Code § 552.201(a)–.204.

b) Sign

The officer for public information shall prominently display a sign in the form prescribed by the Attorney General that contains basic information about the rights of a requestor, the responsibilities of Richard Milburn Academy, and the procedures for inspecting or obtaining a copy of public information under the TPIA. The officer for public information shall display the sign at one or

more places in the Richard Milburn Academy administrative offices where it is plainly visible to:

1. Members of the public who request public information in person; and
2. Richard Milburn Academy employees whose duties include receiving or responding to public information requests.

Sec. 6. ACCESS TO PUBLIC INFORMATION

a) Rules of Access

Richard Milburn Academy may promulgate reasonable rules of procedure by which public information may be inspected and copied efficiently, safely, and without delay. These rules may not be inconsistent with any provision of the TPIA. *Gov't Code § 552.230*.

It shall be the policy of Richard Milburn Academy to provide a suitable copy of public information within a reasonable time after the date on which the copy is requested. *Gov't Code § 552.228*.

b) Method of Making Written Request for Public Information

A person may make a written request for public information only be delivering the request by one of the following methods to the designated officer for public information:

1. United States mail;
2. Electronic mail;
3. Hand delivery; or
4. Any other appropriate method approved by Richard Milburn Academy, including facsimile transmission and electronic submission through the Richard Milburn Academywebsite.

Richard Milburn Academy may designate one mailing address and one electronic mail address for receiving written requests for public information and shall provide the designated mailing address and electronic mail address to any person on request.

Mailing Address: 401 E. Sonterra Boulevard, San Antonio, TX 78258
Email address: info@rma-tx.org

If Richard Milburn Academy posts a designated mailing address or electronic mail address on the Richard Milburn Academy's website, or if Richard Milburn Academy prints those addresses on the TPIA sign noted in Section 5(b), Richard Milburn Academy is not required to respond to a written request for public information unless the request is received:

1. At one of those addresses;
2. By hand delivery; or
3. By a method that has been approved by Richard Milburn Academy.

Gov't Code § 552.234.

c) Inquiry of Requestors

The officer for public information and agent shall not make an inquiry of a requestor, except to establish proper identification or to ask the requestor to narrow or clarify the request. The officer for public information or agent shall treat all requests for information uniformly without regard to the position or occupation of the requestor, the person on whose behalf the request is made, or the status of the individual as a member of the media. The officer for public information or agent shall give the requestor all reasonable comfort and facility for the full exercise of the right granted by the TPIA. *Gov't Code §§552.222(a)-(b), .223–.224*.

d) Location of Access

Richard Milburn Academy complies with a request for public information by:

1. Providing the information for inspection or duplication in Richard Milburn Academy's offices (see TIME FOR EXAMINATION, section 6-g below); or
2. Sending copies of the information by first class mail, if the requestor requests that copies be provided and pays the postage and any other applicable charges that the requestor has accrued under Subchapter F of the TPIA (see COSTS AND CHARGES, below).
3. By referring a requestor to an exact Internet location or uniform resource locator ("URL") address on a website maintained by Richard Milburn Academy and accessible to the public if the requested information is identifiable and readily available on that website. If the requestor prefers a manner other than access through the URL, Richard Milburn Academy must supply the information by sending copies to the requestor, as described above. If the officer for public information provides by e-mail an Internet location or URL address, the e-mail must contain a statement in a conspicuous font clearly indicating that the requestor may nonetheless access the requested information by inspection or duplication or by receipt through the United States mail, as described above.

The TPIA does not authorize a requestor to remove an original copy of a public record from Richard Milburn Academy.

Gov't Code § 552.221(b)-(b-2), .226.

e) Time for Response

Richard Milburn Academy shall promptly produce public information for inspection, duplication, or both, on application by any person. "Promptly" means as soon as possible under the circumstances, that is, within a reasonable time, without delay.

If Richard Milburn Academy cannot produce the public information for inspection or duplication within 10 business days after the date the information is requested, the officer for public information or designee shall certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

If the requested information is unavailable because it is in storage or active use, the officer for

public information or designee shall certify this fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

Gov't Code § 552.221.

f) Requests to Clarify or Narrow

If a large amount of information has been requested, Richard Milburn Academy may discuss with the requestor how the scope of the request might be narrowed, but Richard Milburn Academy may not inquire into the purpose for which the information will be used. If what information is requested is unclear to Richard Milburn Academy, Richard Milburn Academy may ask the requestor to clarify the request.

If the request included the requestor's physical or mailing address, Richard Milburn Academy must send the request for discussion or clarification to that address by certified mail. The written request for discussion or clarification must include a statement as to the consequences of failure by the requestor to timely respond. If Richard Milburn Academy does not receive a written response by the 61st day after Richard Milburn Academy sends the written request, the underlying request for public information is considered to have been withdrawn by the requestor.

g) Time for Examination

A requestor shall complete the examination of the information not later than the 10th business day after the date the custodian of the information makes it available. If the requestor does not complete the examination within 10 business days and does not file a request for additional time, the requestor is considered to have withdrawn the request.

Richard Milburn Academy shall extend the initial examination period by an additional 10 business days if, within the initial period, the requestor files with the officer for public information or designee a written request for additional time. The officer or designee shall extend an additional examination period by another 10 business days if, within the first additional period, the requestor files with the officer a written request for more additional time.

The time during which a person may examine information may be interrupted by Richard Milburn Academy if the information is needed for use by Richard Milburn Academy. The period of interruption is not considered to be a part of the time during which the person may examine the information.

A request is considered to have been withdrawn if the requestor fails to inspect or duplicate the public information in the offices of Richard Milburn Academy on or before the 60th day after the date the information is made available or fails to pay the postage and any other applicable charges accrued under Government Code, Chapter 552, Subchapter F on or before the 60th day after the date the requestor is informed of the charges.

Gov't Code § 552.221(e), .225.

h) Electronic Data

If public information exists in an electronic or magnetic medium, the requestor may request a copy in an electronic medium, such as on diskette or on magnetic tape. Richard Milburn Academy shall provide a copy in the requested medium:

1. If Richard Milburn Academy has the technological ability to produce the information in the requested medium;
2. If Richard Milburn Academy is not required to purchase any software or hardware to accommodate the request; and
3. Providing the copy will not violate any copyright agreement between Richard Milburn Academy and a third party.

If Richard Milburn Academy is unable to comply with a request to produce a copy of information in a requested medium for any of these reasons Richard Milburn Academy shall provide a copy in another medium that is acceptable to the requestor. Richard Milburn Academy is not required to copy information onto a diskette or other material provided by the requestor but may use Richard Milburn Academy supplies.

Gov't Code § 552.228.

i) Requests Requiring Programming or Manipulation of Data

Richard Milburn Academy shall provide the requestor a written statement, described below, if Richard Milburn Academy determines:

1. That responding to a request for information will require programming or manipulationof data; and
2. That:
   a. Compliance with the request is not feasible or will result in substantial interference with operations; or
   b. The information could be made available in the requested form only at a cost that covers the programming and manipulation of data.

The written statement shall include:

1. A statement that the information is not available in the requested form;
2. A description of the form in which the information is available;
3. A description of any contract or services that would be required to provide the information in the requested form;
4. A statement of the estimated cost of providing the information in the requested form, as determined in accordance with rules established by the Attorney General; and
5. A statement of the anticipated time required to provide the information in the requested form.

Richard Milburn Academy shall provide the written statement to the requestor within 20 days after the date Richard Milburn Academy receives the request. Richard Milburn Academy has an additional 10 days to provide the statement if Richard Milburn Academy gives written notice to the requestor, within 20 days after receiving the request, that additional time is needed.

After providing the written statement described above, Richard Milburn Academy has no further obligation to provide the information in the requested form or in the form in which it is available, unless within 30 days the requestor states in writing that the requestor:

1. Wants the information in the requested form according to the time and cost parameters set out in the written statement, or according to other terms to which the requestor and Richard Milburn Academy agree; or
2. Wants the information in the form in which it is available.

If a requestor does not make a timely written statement, the requestor is considered to have withdrawn the request for information.

The officer for public information shall establish policies that assure the expeditious and accurate processing of requests for information that require programming or manipulation of data. Richard Milburn Academy shall maintain a readily accessible file containing all written statements issued concerning requests for information that require programming or manipulation of data.

Gov't Code § 552.231.

j) Repetitious or Redundant Requests

If Richard Milburn Academy determines that a requestor has made a request for information for which Richard Milburn Academy has previously furnished or made copies available to the requestor, Richard Milburn Academy may:

1. Respond to the request for information as set forth below, at PROCEDURES, section 6-k below; or
2. Furnish the information, or make the information available to the requestor again in accordance with the request. If Richard Milburn Academy selects this option, Richard Milburn Academy is not required to comply with the procedures described below.

These provisions do not apply to information not previously furnished to a requestor. Richard Milburn Academy shall treat a request for information for which copies have not been previously furnished or made available to the requestor, including information that was not furnished or made available because the information was redacted or because the information did not exist at the time of an earlier request, in the same manner as any other request for public information.

Gov't Code § 552.232(a), (d).

k) Procedures

Richard Milburn Academy shall, free of charge, certify to the requestor that copies of all or part of the requested information were previously furnished or made available to the requestor. The certification must include:

1. A description of the information for which copies have been previously furnished or made available to the requestor;
2. The date Richard Milburn Academy received the requestor's original request for that information;
3. The date Richard Milburn Academy previously furnished copies or made available copies of the information to the requestor;
4. A certification that no subsequent additions, deletions, or corrections have been made to that information; and
5. The name, title, and signature of the officer for public information or agent making the certification.

Gov't Code § 552.232(b), (c).

l) Requests for Contracting Information Not Maintained by Richard Milburn Academy

Richard Milburn Academy shall comply with the requirements of Government Code 552.371 with respect to requests for public information related to certain contracts involving at least $1 million in public funds when information related to the contract is in the custody or possession of the contracting entity and is not maintained by Richard Milburn Academy. *Gov't Code § 552.371*.

Sec. 7. ATTORNEY GENERAL DECISIONS

a) Request for Attorney General Decision

If Richard Milburn Academy receives a written request for information that Richard Milburn Academy reasonably considers to be within one of the exceptions to required disclosure and that Richard Milburn Academy wishes to withhold from public disclosure, Richard Milburn Academy shall request a decision from the Attorney General about whether the information is within the exception (see SUBMISSION TO ATTORNEY GENERAL, section 7-f below). For these purposes, the term "written request" includes a request sent by electronic mail or facsimile transmission to the officer or designee. *Gov't Code § 552.301(a)*.

Richard Milburn Academy shall submit any requests for an Attorney General decision through the Attorney General's designated electronic filing system, unless the request is hand delivered to the office of the Attorney General, the format of responsive at issue makes using the Attorney General's electronic filing system impossible or impractical, Richard Milburn Academy has fewer than 16 full time employees, or Richard Milburn Academy is in a county with a population of less than 150,000. *Gov't Code § 552.3031*.

b) Time for Request

Richard Milburn Academy must submit the request to the Attorney General not later than the 10th business day after receiving the written request. If Richard Milburn Academy does not timely request a decision from the Attorney General and comply with the requirements at STATEMENT TO REQUESTOR, section 7-e below, the information is presumed to be subject to public disclosure and must be released unless there is a compelling reason to withhold it. *Gov't Code §§ 552.301(b), .302*.

c) Calculating Timelines

For the purposes of requesting an Attorney General decision, if Richard Milburn Academy receives a written request by United States mail and cannot adequately establish the actual date of receipt, the request is considered to have been received by Richard Milburn Academy on the third business day after the date of the postmark on a properly addressed request. *Gov't Code §552.301(a-1)*.

For information surrendered or returned to Richard Milburn Academy by a temporary custodian, Richard Milburn Academy is considered to have received the request for that information on the date the information is returned or surrendered to Richard Milburn Academy. *Gov't Code § 552.233(d)*.

d) Previous Determinations

Except as set forth at Government Code section 552.301(g), Richard Milburn Academy may not request an Attorney General decision if Richard Milburn Academy has previously requested and received a determination from the Attorney General concerning the precise information at issue in a pending request and the Attorney General or a court determined that the information is not within one of the exceptions. This exception applies to specific information that is again requested from Richard Milburn Academy after the Attorney General has previously issued a decision regarding the precise information or records at issue.

Richard Milburn Academy may rely on a previous determination by the Attorney General regarding a specific, clearly delineated category of information if:

1. The previous decision is applicable to a school district or charter school;
2. The previous decision concludes that the category of information is or is not excepted from public disclosure;
3. The elements of law, fact, and circumstances are met to support the previous decision's conclusion that the requested records and information at issue are not excepted from public disclosure; and
4. The previous decision explicitly provides that the governmental body or bodies to which the decision applies may withhold the information without the necessity of seeking a decision from the Attorney General.

Richard Milburn Academy shall notify the requestor in writing of the decision or ruling upon which it is relying if it relies on any previous determination to withhold information from disclosure.

Richard Milburn Academy may withhold from public disclosure the categories of records listed at Texas Attorney General Open Records Decision 684 (2009).

Richard Milburn Academy may withhold from public disclosure personally identifiable, non-directory information in "education records" as defined in the Family Educational Rights and Privacy Act of 1974 ("FERPA").

e) Statement to Requestor

If Richard Milburn Academy requests an Attorney General decision, it shall provide to the requestor within a reasonable time, but not later than the 10th business day after the date of receiving the requestor's written request:

1. A written statement that Richard Milburn Academy wishes to withhold the requested information and has asked for a decision from the Attorney General about whether the information is within an exception to public disclosure; and
2. A copy of Richard Milburn Academy's written communication to the Attorney General asking for the decision. If Richard Milburn Academy's written communication to the

   Attorney General discloses the requested information; Richard Milburn Academy shall provide a redacted copy of that written communication.

Gov't Code § 552.301(d).

f) Submission to Attorney General

When Richard Milburn Academy requests an Attorney General decision, it shall, within a reasonable time but not later than the 15th business day after receiving the request for information, submit to the Attorney General all of the following:

1. Written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld;
2. A copy of the written request for information;
3. A signed statement as to the date on which the written request for information was received by Richard Milburn Academy or evidence sufficient to establish that date; and
4. A copy of the specific information requested, or representative samples of the information if a voluminous amount of information was requested. Richard Milburn Academy shall label the copies or representative samples to indicate which exceptions apply to which parts of the copy.

Richard Milburn Academy shall send a copy of the comments to the requestor not later than the 15th business day after Richard Milburn Academy receives the written request. If the written comments disclose or contain the substance of the information requested, the copy of the comments provided to the requestor shall be redacted.

Gov't Code § 552.301(e), (e-1).

Unless the information is confidential by law, Richard Milburn Academy may disclose the requested information to the public or the requestor before a final determination that the information is public has been made by the Attorney General or a court with jurisdiction. *Gov't Code § 552.303(a)*.

g) Information to Requestor after Attorney General Decision

Within a reasonable period of time, not to exceed 30 days, after the date the Attorney General issues an opinion letter, Richard Milburn Academy shall:

1. Provide the requestor an itemized estimate of charges for production if estimate is required under Government Code 552.2615,
2. If the requested information is able to be disclosed the information in a single batch:
    a. provide a written certified notice to the requestor and the Attorney General that it is impractical or impossible for Richard Milburn Academy to produce the information within a reasonable period of time,
    b. include in the notice the date and hour that Richard Milburn Academy will disclose the information to the requestor, which may not be later than the 15th business day after the date of the notice, and
    c. produce the information at the date and time included in the notice.

    If Richard Milburn Academy determines that that it is unable to disclose the information in a single batch:
    a. provide a written certified notice to the requestor and the Attorney General that it is impractical or impossible for Richard Milburn Academy to produce the information within a reasonable period of time,
    b. include in the notice the date and hour that Richard Milburn Academy will disclose the first batch of information to requestor, which may not be later than the 15th business day after the date of the notice,
    c. provide a written certified notice to the requestor and Attorney General when each subsequent batch of information when each subsequent batch of information is disclosed to the requestor of the date and hour that Richard Milburn Academy will disclose the next batch of information, which may not be later than the 15th business day after the date of the notice, and
    d. produce the information at the date and time included in each notice.
3. Produce the information if it is required to be produced; and
4. Notify the requestor in writing that Richard Milburn Academy is withholding the information as authorized by the opinion or that Richard Milburn Academy has filed suit against the Attorney General regarding the information.

Gov't Code § 552.306.

h) Additional Information

If the Attorney General determines that additional information is necessary to render a decision, the Attorney General shall give Richard Milburn Academy and the requestor written notice of that fact. Richard Milburn Academy shall submit the necessary additional information to the Attorney General not later than the seventh calendar day after the date the notice is received. If Richard Milburn Academy does not comply with the Attorney General's request, the information is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information. *Gov't Code § 552.303(c)-(e)*.

i) Privacy or Property Interests

If information is requested and a person's privacy or property interests may be involved, including a case under Government Code 552.101 (information confidential by law), 552.110 (trade secrets), 552.1101 (proprietary information), 552.114 (student records), 552.131 (economic development information), or 552.143 (investment information), Richard Milburn Academy may decline to release the information for the purpose of requesting a decision from the Attorney General. A person whose interests may be involved, or any other person, may submit in writing to the Attorney General the person's reasons why the information should be withheld or released. Richard Milburn Academy may, but is not required to, submit its reasons why the information should be withheld or released. *Gov't Code § 552.305(a)-(c)*.

j) Notice to Owner of Proprietary Information

If release of a person's proprietary information may be subject to exception under Government Code 552.101 (information confidential by law), 552.110 (trade secrets), 552.1101 (Proprietary Information), 552.113 (geological or geophysical information), 552.131 (economic development information), or 552.143 (investment information), Richard Milburn Academy shall, when requesting an Attorney General decision, make a good faith attempt to provide written notice to that person of its request. The notice must:

1. Be sent within a reasonable time not later than the 10th business day after Richard Milburn Academy receives the request for information; and
2. Include:
   a. A copy of any written request Richard Milburn Academy received for the information; and
   b. A statement, in the form prescribed by the Attorney General, that the person is entitled to submit to the Attorney General, not later than the 10th business day after the person receives the notice, a written statement of the reason(s) why the information should be withheld and a letter, memorandum, or brief supporting the reason(s).

Gov't Code § 552.305(d).

Sec. 8. CHARGES REGARDING TPIA REQUESTS

a) Costs and Charges

The charge for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the information, including costs of materials, labor, and overhead.

The charges shall not be excessive and shall not exceed the actual cost of producing the information or for making public information that exists in a paper record available. Charges for providing a copy of public information are considered to accrue at the time Richard Milburn Academy advises the requestor that the copy is available on payment of the applicable charges.

i. 50 Pages or Fewer

If a request is for 50 or fewer pages of paper records, the charge for providing the copy of the information shall be limited to the charge for each page of the paper record that is photocopied, unless the pages to be photocopied are located in two or more separate buildings that are not physically connected with each other or a remote storage facility. The charge for providing a copy may not include costs of materials, labor, or overhead.

ii. Statement of Labor Costs

If the charge for providing a copy of public information includes costs of labor, the requestor may require the officer for public information or agent to provide the requestor with a written statement as to the amount of time that was required to produce and provide the copy. The statement must be signed by the officer or agent, and the officer or agent's name must be typed or legibly printed below the signature. A charge may not be imposed for providing the written statement to the requestor.

All requests received in one calendar day from an individual may be treated as a single request for purposes of calculating costs. Richard Milburn Academy may not combine multiple requests from separate individuals who submit requests on behalf of an organization.

iii. Attorney General's Rules

Richard Milburn Academy shall use the Attorney General's rules to determine the charges for providing copies of public information and to determine the charge, deposit, or bond required for making public information that exists in a paper record available for inspection, except to the extent that other law provides for charges for specific kinds of public information.

Richard Milburn Academy may determine its own charges for providing copies of public information and its own charge, deposit, or bond for making public information that exists in a paper record available for inspection. However, Richard Milburn Academy may not charge an amount that is greater than 25 percent more than the amount established by the Attorney General, unless Richard Milburn Academy requests an exemption.

iv. Exemptions

Richard Milburn Academy may request that it be exempt from part or all of the rules adopted by the Attorney General for determining charges. The request must be made in writing to the Attorney General and must state the reason for the exemption. If Richard Milburn Academy receives notice from the Attorney General that an exemption has been granted, Richard Milburn Academy may amend its charges according to the Attorney General's determination.

v. *Copies for Parents*

Richard Milburn Academy may charge a reasonable fee in accordance with the above requirements for copies of materials provided to parents pursuant to Education Code 26.012.

vi. *Statement of Estimated Charges*

If a request for a copy of public information will result in the imposition of a charge that exceeds $40, Richard Milburn Academy shall provide the requestor with a written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If an alternative less costly method of viewing the records is available, the statement must include a notice that the requestor may contact Richard Milburn Academy regarding the alternative method. Richard Milburn Academy must inform the requestor of the responsibilities imposed on the requestor by Government Code 552.2615 and the rights granted by that section and give the requestor the information needed to respond as detailed in Government Code 552.2615(a).

If, after Richard Milburn Academy provides the requestor the itemized statement but before it makes the copy or the paper record available, Richard Milburn Academy determines that the estimated charges will exceed the charges detailed in the original itemized statement by 20 percent or more, Richard Milburn Academy shall send to the requestor an updated written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs.

vii. *Requestor's Response*

A request for which Richard Milburn Academy is required to produce an (original or updated) itemized statement of estimated charges is considered to have been withdrawn if the requestor does not respond in writing to the itemized statement by informing Richard Milburn Academy within 10 business days after the date the statement is sent to the requestor that:

1. The requestor will accept the estimated charges;
2. The requestor is modifying the request in response to the itemized statement; or
3. The requestor has sent to the Attorney General a complaint alleging that the requestor has been overcharged for being provided with a copy of the public information.

viii. *Actual Charges*

If the actual charges exceed $40, the charges may not exceed:

1. The amount estimated in the updated itemized statement; or
2. If an updated itemized statement is not sent to the requestor, an amount that exceeds by 20 percent or more the amount estimated in the original itemized statement.

ix. *Timing of Deadlines*

An original or updated itemized statement is considered to have been sent by Richard Milburn Academy, and a requestor is considered to have responded to the statement, on the date that the statement or response is:

1. Delivered in person;
2. Deposited, properly addressed, in the U.S. mail; or
3. Transmitted by electronic mail or facsimile, provided the requestor agrees to receive the statement by those means.

The time deadlines for providing or responding to the required statement of estimated charges do not affect the application of a time deadline imposed on Richard Milburn Academy for requesting a decision by the Attorney General under Government Code 552, Subchapter G.

Gov't Code § 552.2615.

b) Deposit or Bond

The officer for public information or agent may require a deposit or bond for payment of anticipated costs for the preparation of a copy of public information if:

1. The officer or agent has provided the requestor with the written itemized statement required by Government Code 552.2615 (see STATEMENT OF ESTIMATED CHARGES, section 8-a-vi above); and
2. The charge for providing the copy is estimated by Richard Milburn Academy to exceed $100, if Richard Milburn Academy has more than 15 full-time employees, or $50, if Richard Milburn Academy has fewer than 16 full-time employees.

The officer or agent may not require a deposit or bond as a down payment for copies of public information that the requestor may request in the future.

Gov't Code § 552.263(a), (b).

For the purposes of charging for providing copies of public information or for requesting an Attorney General's opinion, a request for a copy of public information is considered to have been received by Richard Milburn Academy on the date Richard Milburn Academy receives the deposit or bond. *Gov't Code § 552.263(e)*.

A requestor who fails to make such a deposit or post such a bond before the 10th business day after the date the deposit or bond is required is considered to have withdrawn the request. *Gov't Code § 552.263(f)*.

i. *Modified Request*

If a requestor modifies a request in response to the requirement of a deposit or bond, the modified request is considered a separate request and is considered received on the date Richard Milburn Academy receives the written modified request. *Gov't Code § 552.263(e-1)*.

ii. *Unpaid Amounts*

The officer for public information or agent may require a deposit or bond for payment of unpaid amounts the requestor owes Richard Milburn Academy in relation to previous public information requests before preparing a copy of public information in response to a new request, if those unpaid amounts exceed $100. The officer for public information or agent may not seek payment of those unpaid amounts through any other means. *Gov't Code § 552.263(c)*.

If Richard Milburn Academy receives a request from a requestor who, within the preceding 180 days, has accepted but failed to pay written itemized statements of estimated charges from Richard Milburn Academy as provided under Government Code 552.261(b), Richard Milburn Academy may require the requestor to pay the estimated charges for the request before the request is fulfilled. *Gov't Code § 552.2661*.

iii. *Documentation of Unpaid Amounts*

Richard Milburn Academy must fully document the existence and amount of those unpaid amounts or the amount of any anticipated costs before requiring a deposit or bond. The documentation is subject to required public disclosure. *Gov't Code § 552.263(d)*.

iv. *Waivers*

Richard Milburn Academy shall provide a copy of public information without charge or at a reduced charge if Richard Milburn Academy determines that waiver or reduction of the charge is in the public interest because providing the information primarily benefits the public. If the cost to Richard Milburn Academy of processing the collection of a charge for providing a copy of public information will exceed the amount of the charge, Richard Milburn Academy may waive the charge. *Gov't Code § 552.267.*

c) Government Publications

The cost provisions described above do not apply to a publication that is compiled and printed by or for Richard Milburn Academy for public dissemination. If the cost of the publication is not determined by state law, Richard Milburn Academy may determine the charge for providing the publication, or Richard Milburn Academy may provide the publication free of charge, if state law does not require a certain charge. *Gov't Code § 552.270.*

Sec. 9. INSPECTION OF PUBLIC INFORMATION

a) Inspection of Public Information

If the requestor does not request a copy of public information, Richard Milburn Academy may not impose a charge for making available for inspection any public information that exists in a paper record, except as set forth below. *Gov't Code § 552.271(a)*.

i. *Confidential Information*

If a page contains confidential information that must be edited from the record before the information can be made available for inspection, Richard Milburn Academy may charge for the cost of making a photocopy of the page from which the confidential information must be edited. No charge other than the cost of the photocopy may be imposed. *Gov't Code § 552.271(b)*.

ii. *Payment, Deposit, or Bond*

The officer for public information or agent may require a requestor to pay, or to make a deposit or post a bond for the payment of, anticipated personnel costs for making available for inspection public information that exists in paper records if:

1. The information specifically requested by the requestor is older than five years or completely fills, or when assembled will completely fill, six or more archival boxes; and
2. The officer for public information or agent estimates that more than five hours will be required to make the information available for inspection.

Gov't Code § 552.271(c).

If Richard Milburn Academy has fewer than 16 full-time employees, the payment, deposit, or bond may be required only if:

1. The information specifically requested by the requestor is older than three years or completely fills, or when assembled will completely fill, three or more archival boxes; and
2. The officer for public information or agent estimates that more than two hours will be required to make the information available for inspection.

Gov't Code § 552.271(d).

b) Electronic Records

If Richard Milburn Academy receives a request to inspect information that exists in an electronic medium and that is not available directly online to the requestor, Richard Milburn Academy may not impose a charge for access to the information unless complying with the request will require programming or manipulation of data. If programming or manipulation of data is required, Richard Milburn Academy shall notify the requestor before assembling the information and provide the requestor with an estimate of charges that will be imposed.

If public information exists in an electronic form on a computer owned or leased by Richard

Milburn Academy and the public has direct access to that computer through a computer network or other means, the electronic form of the information may be electronically copied from that computer without charge if accessing the information does not require processing, programming, or manipulation on Richard Milburn Academy's computer before the information is copied. If such information does require processing, programming, or manipulation before it can be copied, Richard Milburn Academy may impose charges.

If Richard Milburn Academy creates or keeps information in an electronic form, Richard Milburn Academy is encouraged to explore options to separate confidential information from public information and make the public information available to the public through electronic access through a computer network or other means.

Gov't Code § 552.272.

Sec. 10. TEMPORARY SUSPENSION OF TEXAS PUBLIC INFORMATION ACT (TPIA) DUE TO CATASTROPHE

The requirements of the TPIA do not apply if Richard Milburn Academy is currently significantly impacted by a catastrophe such that the catastrophe directly causes the inability of the school to comply with the TPIA and complies with the requirements below for declaring a suspension period.

"Catastrophe" means a condition or occurrence that directly interferes with the ability of Richard Milburn Academy to comply with the TPIA's requirements, including:

1. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
2. Power failure, transportation failure, or interruption of communication facilities;
3. Epidemic; or
4. Riot, civil disturbance, enemy attack, or other actual or threatened acts of lawlessness or violence.

"Catastrophe" does not mean a period when staff is required to work remotely and can access information responsive to an application for information electronically, but the physical office of the school is closed.

"Suspension period" means the period of time during which Richard Milburn Academy may suspend the applicability of the TPIA's requirements.

a) Initial Suspension Period

The Board may suspend the applicability of the TPIA to Richard Milburn Academy for an initial suspension period. The School may suspend the TPIA only once for each catastrophe. The initial suspension may not exceed seven consecutive days and must occur during the period that:

1. Begins not earlier than the second day before the date Richard Milburn Academy submits notice to the Attorney General; and
2. Ends not later than the seventh day after the date Richard Milburn Academy submits that

notice.

b) Extension of Initial Suspension Period

The Board may extend an initial suspension period if the Board determines that Richard Milburn Academy is still impacted by the catastrophe on which the initial suspension period was based. The initial suspension period may be extended one time for not more than seven consecutive days that begin on the day following the day the initial suspension period ends. The combined suspension period may not exceed a total of 14 consecutive calendar days with respect to any single catastrophe.

c) Informing the Attorney General

If the Board elects to suspend the TPIA, Richard Milburn Academy must submit notice to the Attorney General that Richard Milburn Academy is currently impacted by a catastrophe and has elected to suspend the applicability of the TPIA during the initial suspension period. The notice must be on the form prescribed by the Attorney General, and must require Richard Milburn Academy to:

1. Identify and describe the catastrophe that Richard Milburn Academy is currently impacted by;
2. State the date the initial suspension period determined by the Board begins and the date that period ends;
3. If the Board has determined to extend the initial suspension period:
   a. State that Richard Milburn Academy continues to be impacted by the catastrophe; and
   b. State the date the extension to the initial suspension period begins and the date the period ends; and
4. Provide any other information the Attorney General determines necessary.

d) Informing the Public

If the Board elects to suspend the TPIA, Richard Milburn Academy must provide notice to the public of the suspension in a place readily accessible to the public and in each other location Richard Milburn Academy is required to post a notice under the Open Meetings Act. Richard Milburn Academy must maintain the notice of the suspension during the entire suspension time.

e) Requests Received During a Suspension Period

A request for public information received by Richard Milburn Academy during a suspension period is considered to have been received by Richard Milburn Academy on the first business day after the date the suspension period ends.

f) Pending Requests During a Suspension Period

A TPIA request received by Richard Milburn Academy before the date an initial suspension period

begins will not be processed until the first business day after the date the suspension period ends.

Gov't Code § 552.233.

Sec. 11. PRODUCTION OF PUBLIC INFORMATION WHEN ADMINISTRATIVE OFFICES CLOSED

If Richard Milburn Academy closes its physical offices but requires staff to work, including remotely, then the School shall make a good faith effort to continue responding to applications for public information, to the extent staff have access to responsive information. Failure to respond to an application for information may constitute a refusal to request an AG decision or a refusal to supply public information or information that the Attorney General has determined is public information.

Tex. Gov't Code §552.2211.

Sec. 12. MISCELLANEOUS

a) Limit on Personnel Time for Large or Frequent Requests

Richard Milburn Academy may set reasonable monthly and yearly limits on the amount of time that school personnel are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering its costs attributable to that personnel time.

Richard Milburn Academy has set the following monthly and yearly limits on the amount of time that school personnel are required to spend producing or providing copies of public information to a requestor without recovering costs attributable to that personnel time:

1. A monthly time limit of 15 hours for a requestor within a one-month period; or
2. A yearly time limit of 36 hours for a requestor during the 12-month period that corresponds to Richard Milburn Academy's fiscal year.

Gov't Code §552.275(a), (b).

i. *Request by Minor*

Any time spent complying with a request submitted in the name of a minor, as defined by Family Code 101.003(a), is to be included in the calculation of the cumulative amount of time spent complying with a request for public information by a parent, guardian, or other person who has control of the minor under a court order and with whom the minor resides, unless that parent, guardian, or other person establishes that another person submitted that request in the name ofthe minor.

ii. *Exception*

This section does not apply if the requestor is an individual who, for a substantial portion of the individual's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or

information for and is seeking the information for:

1. Dissemination by a news medium or communication service provider, including (a) an individual who supervises or assists in gathering, preparing, and disseminating the news or information; or (b) an individual who is or was a journalist, scholar, or researcher employed by an institution of higher education at the time the person made the request for information; or
2. Creation or maintenance of an abstract plant as described by Insurance Code § 2501.004.

"Communication service provider" has the meaning assigned by Civil Practice and Remedies Code § 22.021.

"News medium" means a newspaper, magazine or periodical, a book publisher, a news agency, a wire service, an FCC-licensed radio or television station or a network of such stations, a cable, satellite, or other transmission system or carrier or channel, or a channel or programming service for a station, network, system, or carrier, or an audio or audiovisual production company or Internet company or provider, or the parent, subsidiary, division, or affiliate of that entity, that disseminates news or information to the public by any means, including:

1. Print;
2. Electronic;
3. Mechanical;
4. Photographic;
5. Radio;
6. Television; and
7. Other means, known or unknown, that are accessible to the public.

This section also does not apply if the requestor is an elected official of the United States, the State of Texas, or a political subdivision of the State of Texas, or a representative of a publicly funded legal services organization that is a federal tax-exempt entity under Section 501(c)(3), Internal Revenue Code of 1986.

iii. *Written Statement of Personnel Time*

Each time Richard Milburn Academy complies with a request for public information, Richard Milburn Academy shall provide the requestor with a written statement of the amount of personnel time spent complying with that request and the cumulative amount of time spent complying with requests for public information from that requestor during the applicable monthly or yearly period. The amount of time spent preparing the written statement may not be included in the amount of time in the statement, unless the requestor's time limit for the period has been exceeded.

iv. *Written Estimate of Charges*

If the cumulative amount of personnel time spent complying with requests for public information

from the same requestor equals or exceeds the established time limit, Richard Milburn Academy shall provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses, necessary to comply with the request. Richard Milburn Academy shall provide the written estimate on or before the 10th day after the date on which the request was made. The amount of this charge relating to the cost of locating, compiling, and producing the public information shall be established by rules prescribed by the Attorney General.

When a request is made by a requestor who has made a previous request to Richard Milburn Academy that has not been withdrawn, for which Richard Milburn Academy has located and compiled documents in response, and for which Richard Milburn Academy has issued a written estimate of charges that remains unpaid on the date the requestor submits the new request, Richard Milburn Academy is not required to locate, compile, produce, or provide copies of documents or prepare an estimate of charges in response to a new request until the date the requestor pays each unpaid statement issued in connection with a previous request or withdraws the previous request to which the statement applies.

Gov't Code §552.275(e), (e-1).

v. *Request for Photo Identification*

Richard Milburn Academy may request photo identification from a requestor for the sole purpose of establishing that the requestor has not:

1. Exceeded a limit established by Richard Milburn Academy under this Policy; and
2. Concealed the requestor's identity.

A request for photo identification must include a written estimate of charges, as described above, applicable to the requestor who has exceeded a limit established by Richard Milburn Academy and a statement that describes each specific reason why the request for identification may apply to the requestor. Richard Milburn Academy shall accept as proof of a requestor's identification physical presentment of photo identification or an image of the photo identification that is transmitted electronically or through the mail. A requestor from whom Richard Milburn Academy has requested photo identification may decline to provide identification and obtain the requested information by paying the charge assessed in the statement.

Gov't Code §552.275(n).

vi. Additional Time

If Richard Milburn Academy provides the requestor with written notice that additional time is required to prepare the written estimate, Richard Milburn Academy must provide the written estimate as soon as practicable, but on or before the 10th day after the date Richard Milburn Academy provided the notice that additional time was required.

vii. Acceptance of Charges

If Richard Milburn Academy provides a requestor with the estimate of charges or written request

for identification and the time limits regarding the requestor have been exceeded, Richard Milburn Academy is not required to produce public information for inspection or duplication or to provide copies of public information in response to the requestor's request unless on or before the 10th day after the date Richard Milburn Academy provided the written estimate, the requestor submits payment of the amount stated in the written estimate, or provides identification or submits payment, as applicable. If the requestor fails or refuses to provide identification or submit payment, the requestor is considered to have withdrawn the request. *Gov't Code §552.275(h)*.

viii. Waived or Reduced Charges

This section does not prohibit Richard Milburn Academy from providing a copy of public information without charge or at a reduced rate, or from waiving a charge for providing a copy of public information, under Government Code 552.267. *Gov't Code §552.275(h)*.

ix. Inspection on Behalf of Another Requestor

A requestor who has exceeded a limit established by Richard Milburn Academy under this Policy may not inspect public information on behalf of another requestor unless the requestor who exceeded the limit has paid each statement issued by Richard Milburn Academy. *Gov't Code § 552.271(e), Gov't Code § 552.272(f)*.

b) Filing Suit to Withhold Information

Richard Milburn Academy may file suit seeking to withhold information if Richard Milburn Academy receives a determination from the Attorney General that information must be disclosed to a requestor. The suit must be filed in Travis County district court against the Attorney General and must seek declaratory relief from compliance with the Attorney General's decision.

Richard Milburn Academy must bring the suit not later than the 30th calendar day after Richard Milburn Academy receives the Attorney General's decision. If Richard Milburn Academy wishes to preserve an affirmative defense for its officer for public information, as provided by Government Code 552.353(b)(3), Richard Milburn Academy must file suit not later than the 10th calendar day after receipt of the Attorney General's decision.

Gov't Code §§ 552.324, .353(b)(3).

c) Parent's Request for Information

Richard Milburn Academy shall comply with a TPIA request upon receipt of a request from a parent for public information relating to the parent's child.

If Richard Milburn Academy seeks to file suit to challenge a decision by the Attorney General in order to withhold information it must bring the suit not later than the 30th calendar day after the date Richard Milburn Academy receives the decision of the Attorney General, unless an earlier deadline is established by the TPIA. Notwithstanding any other law, Richard Milburn Academy may not appeal the decision of the court. This prohibition does not affect the right of a parent to

appeal the decision. If Richard Milburn Academy does not bring suit within the period established, Richard Milburn Academy shall comply with the decision of the Attorney General.

Gov't Code § 26.0085.

PG-1.203 RECORDS MANAGMENT

Sec. 1. DEFINITIONS

A. "Custodian" means the appointed or designated Richard Milburn Academy official who is in charge of an office that creates or receives local government records.

B. "Essential record" means any Richard Milburn Academy record necessary to the resumption or continuation of operations of Richard Milburn Academy in an emergency or disaster, to the recreation of the legal and financial status of Richard Milburn Academy, or to the protection and fulfillment of obligations to the people of the state.

C. "Local government record" or "Record" means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic media, or other information-recording media, regardless of physical form or characteristic, and regardless of whether public access to it is open or restricted under the laws of Texas, created or received by the School or any of its officers or employees, pursuant to law or in the transaction of public business. The term does not include:

1. Extra identical copies of documents created only for convenience of reference or research by School officers or employees;
2. Notes, journals, diaries, and similar documents created by School officers or employees for the officer's or employee's personal convenience;
3. Blank forms, stocks of publications, and library and museum materials acquired solely for purposes of reference or display; or
4. Copies of documents in any media furnished to members of the public to which they are entitled under the Texas Public Information Act or other state law.

D. "Permanent record" or "record of permanent value" means any record for which the retention period on a records retention schedule issued by the Texas State Library and Archives Commission is given as permanent.

E. "Records control schedule" means a document prepared by or under the authority of a records management officer listing the records maintained by Richard Milburn Academy, their retention periods, and other records disposition information that the Richard Milburn Academy records management program may require.

F. "Records management" means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of record keeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of

forms, reports, and correspondence, and the management of micrographic and electronic and other records storage systems.

G. "Records Management Officer" means the person designated in Section 4 of this policy.

H. "Records Retention Schedule" means a document issued by the Texas State Library and Archives Commission ("TSLAC") under authority of Subchapter J, Chapter 441, Government Code, establishing mandatory retention periods for local government records retained by the School.

I. "Retention period" means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

Loc. Gov't Code 201.003.

Sec. 2. DUTIES OF RICHARD MILBURN ACADEMY

RICHARD MILBURN ACADEMY shall:

1. Submit to the director and librarian of TSLAC the name of the School's records management officer and the name of the new officer in the event of a change;
2. File a plan establishing a records management program and any amendments to the plan or ordinance with the director or librarian of TSLAC;
3. Notify TSLAC at least ten days before destroying a local government record that does not appear on a records retention schedule issued by TSLAC; and
4. File with the director and librarian of TSLAC a written certification as provided by Local Government Code 203.041 that the School has prepared a records control schedule that:
    a. Establishes a retention period for each local government record as required by Local Government Code Chapter 203, Subchapter C; and
    b. Complies with a local government records retention schedule distributed by the director and librarian of TSLAC under Government Code 441.158 and any other state and federal requirements.

Gov't Code 441.169.

Sec. 3. DUTIES OF THE BOARD OF DIRECTORS

The Board of Directors (the "Board") of the School shall:

1. Establish, promote, and support an active and continuing program for the efficient and economical management of all local government records;
2. Cause policies and procedures to be developed for the administration of the program under the direction of the Records Management Officer;
3. Facilitate the creation and maintenance of local government records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the School and designed to furnish the information necessary to protect the legal and financial rights of the School, the state, and persons affected by the School's activities;

4. Facilitate the identification and preservation of the School records that are of permanent value;
5. Facilitate the identification and protection of essential School records; and
6. Cooperate with TSLAC in its conduct of statewide records management surveys.

Loc. Gov't Code 203.021.

Sec. 4. RECORDS DECLARED PUBLIC PROPERTY

All records as defined in Section 1-C of this policy are hereby declared to be the property of Richard Milburn Academy. No Richard Milburn Academy official or employee has, by virtue of his or her position, any personal or property right to such records, even though he or she may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited. *Loc. Gov't Code 201.005*.

Sec. 5. CUSTODIAN OF RECORDS

Record custodians shall:

1. Cooperate with the Records Management Officer in carry9ng out the policies and procedures established by the School for the efficient and economical management of records and in carrying out the requirements of Local Government Code Title 6, Subtitle C;
2. Adequately document the transaction of School business and the services, programs, and duties for which they and their staff are responsible; and
3. Maintain the records in their care and carry out the preservation, microfilming, destruction, or other disposition of the records only in accordance with the policies and procedures of the School's records management program and the requirements of Local Government Code Title 6, Subtitle C, and rules adopted under it.

Loc. Gov't Code 203.022.

Sec. 6. RECORDS MANAGEMENT OFFICER

a. Requirements for Designating Records Management Officer

The Board shall designate an individual or an office or position as the School's Records Management Officer. The name, officer, or position of the Records Management Officer shall be entered into the minutes of the Board and filed by the Records Management Officer within the director and librarian of TSLAC within 30 days after the date of the designation. Any subsequent designations of a new individual, office, or position shall be entered into the Board's minutes and reported to TSLAC in the same manner as the original designation. If the Board's designates an office or position rather than an individual, a new holder of that office or position must file his or her name with TSLAC within 30 days after the date of assuming the office or position.

Loc. Gov't Code 203.025.

b. Designation of Records Management Officer

The Superintendent will serve as and perform the duties of the School's Records Management Officer, and shall administer the School's records management program pertaining to local government records in compliance with the Local Government Records Act.

The Records Management Officer shall file his or her name with the TSLAC within 30 days of assuming the position, and shall file with the TSLAC a written declaration that the School has adopted records control schedules that comply with the records retention schedules issued by the TSLAC as provided by law.

c. Duties of Records Management Officer

The Records Management Officer shall:

1. Assist in establishing and developing policies and procedures for the School's records management program;
2. Administer the records management program and provide assistance to custodians for the purposes of reducing costs and improving recordkeeping efficiency;
3. In cooperation with custodians of records:
    a. Prepare the records control schedules and amended schedules required by Local Government Code 203.041 and the list of obsolete records as provided by Local Government Code 203.044;
    b. Identify and take adequate steps to preserve records of permanent value;
    c. Identify and take adequate steps to protect essential records;
    d. Ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with the School's records management program and the requirements of local Government Code Title 6, Subtitle C and rules adopted under it;
4. Disseminate to the Board and custodians of records information concerning state laws, administrative rules, and government policies relating to School records; and
5. In cooperation with the custodians of records, establish procedures to ensure that the handling of records in any context of the records management program is carried out with due regard for the duties and responsibilities of custodians that may be imposed by law and the confidentiality of information in records to which access is restricted by law.

Loc. Gov't Code 203.023.

Sec. 7. ESTABLISHMENT OF RECORDS MANAGEMENT COMMITTEE; DUTIES

The Records Management Officer shall appoint a Records Management Committee consisting of:

Executive Administrative Assistant
Chief Financial Officer
Human Resources Coordinator
Special Education Director
Superintendent

The committee shall:

a. Assist the Records Management Officer in the development of policies and procedures governing the records management program;

b. Review the performance of the program on a regular basis and propose changes and improvements if needed;

c. Review and approve records control schedules submitted by the Records Management Officer;

d. Give final approval to the destruction of records in accordance with approved records control schedules; and

e. Actively support and promote the records management program throughout Richard Milburn Academy.

The Records Management Officer and the Records Management Committee shall develop a records management program to be submitted to the Board. The plan must contain policies and procedures designed to reduce the costs and improve the efficiency of record keeping, to adequately protect the essential records of the School, and to properly preserve those records of the School that are of historical value. The plan must be designed to enable the Records Management Officer to carry out his or her duties prescribed by state law and this policy effectively.

Once approved by the Board, the records management plan shall be binding on all offices, departments, divisions, programs, commissions, bureaus, boards, committees, or similar entities of the School, and records shall be created, maintained, stored, microfilmed, or disposed of in accordance with the plan.

Sec. 8. RECORDS MANAGEMENT PROGRAM

The Board by order shall establish a records management to be administered by the Records Management Officer. The order must provide methods and procedures to enable the Board, Records Management Officer, and record custodians to fulfill the statutory duties and responsibilities concerning management and preservation of records. The order may prescribe any policies or procedures for the operation of the records management program that are consistent with the requirements of Local Government Code Title 6, Subtitle C and any rules adopted under it. A copy of the order must be filed by the Records Management Officer with TSLAC within 30 days after the date of its adoption. *Loc. Gov't Code 203.0236(a)-(c)*.

The records management program shall also address the length of time records will be posted on the School's website when the law does not specify a posting period.

Sec. 9. RECORDS CONTROL SCHEDULES

The Records Management Officer shall:

1. Prepare a records control schedule listing the following records and establishing a retention period for each:
    a. All records created or received by the School;
    b. Any record no longer created or received by the School that is still in its possession and for which the retention period on a records retention scheduled issued by TSLAC has not expired; and
    c. Any record no longer created or received by the School that is still in its possession and for which the retention period on a records retention schedule issued by TSLAC has expired but which will not be destroyed; and
2. File with the director and librarian a written certification of compliance that the School has adopted records control schedules that comply with the minimum requirements established on records retention schedules issued by TSLAC.

a) Amending Schedules

The Records Management Officer shall review the School's records control schedules and prepare amendments to the schedules as needed to reflect new records created or received by the School or revisions to retention periods established in a records retention schedule issued by TSLAC. The Records Management Officer shall file with the director and librarian of TSLAC a written certification of compliance that the School has amended the records control schedules to comply with the minimum requirements established on records retention schedules issued by TSLAC.

The Board shall require in the order establishing the records management program the review or approval of a records control schedule or amended schedule by the officers of the School as it considers necessary.

Loc. Gov't Code 203.041.

b) Retention Periods

A retention period for each record on the records control schedule shall be determined by the Board or under its direction. A retention period may not be less than a retention period prescribed by state or federal law, regulation, or rule of court, or a retention period for the record established on a scheduled issued by TSLAC. *Loc. Gov't Code 203.042*.

c) TSLAC Retention Schedules

TSLAC has adopted the following retention schedules, among others:

Local Schedule GR – Records Common to All Governments

Local Schedule SD – Records for Public School Districts

These schedules establish mandatory minimum retention schedules for the records listed.
13 TAC 7.125.

Sec. 10. DUTIES AND RESPONSIBILITIES OF DEPARTMENT HEADS AND PRINCIPALS

In addition to other duties assigned in this policy, department heads and principals shall:

a. Cooperate with the Records Management Officer in carrying out the policies and procedures established by Richard Milburn Academy for the efficient and economical management of records and in carrying out the requirements of this policy;

b. Adequately document the transaction of government business and the services, programs, and duties for which the department head, principal, and his or her staff are responsible; and

c. Maintain the records in his or her care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the records management program of Richard Milburn Academy and the requirements of this policy.

Sec. 11. DESIGNATION OF RECORDS LIAISON OFFICERS

Each department head and principal shall designate a member of his or her staff to serve as a Records Liaison Officer for the implementation of the records management program in the department and/or campus.

If the Records Management Officer determines that in the best interests of the records management program more than one Records Liaison Officer should be designated for a department or campus, the department head or principal shall designate the number of Records Liaison Officers specified by the Records Management Officer.

Persons designated as Records Liaison Officers shall be thoroughly familiar with all records created and maintained by the department.

In the event of the resignation, retirement, dismissal, or removal by action of the department head or principal of a person designated as a Records Liaison Officer, the department head or principal shall promptly designate another person to fill the vacancy.

A department head or principal may serve as Records Liaison Officer for his or her department or campus.

Sec. 12. DUTIES AND RESPONSIBILITIES OF RECORDS LIAISON OFFICERS

In addition to other duties assigned in this policy, Records Liaison Officers shall:

a. Conduct or supervise the conduct of inventories of the records of the department in preparation for the development of records control schedules;

b. In cooperation with the Records Management Officer, coordinate and implement the policies and procedures of the records management program in their department; and

c. Disseminate information to department staff concerning the records management program.

Sec. 13. DESTRUCTION OF RECORDS

A School record may be destroyed if:

1. The record is listed on a valid records control schedule and either its retention period has expired or it has been microfilmed or electronically stored in accordance with legal requirements;
2. The record appears on a list of obsolete records as provided by Local Government Code 203.044; or
3. The record is not listed on a records retention schedule issued by TSLAC and the School provides notice to TSLAC at least ten days before destroying the record as required by Government Code 441.169.

The following records may be destroyed without meeting the conditions outlined above:

1. A court orders an expunction order for the destruction or obliteration of the records, pursuant to state law; and
2. The records are defined as exempt from scheduling or filing requirements or listed as exempt in a records retention schedule issued by TSLAC.

a) Exceptions

A record the subject matter of which is known by the custodian to be the subject of litigation may not be destroyed until the litigation is settled. A record that is subject to a request under the Texas Public Information Act may not be destroyed until the request is resolved. *Loc. Gov't Code 202.002*.

the School shall not destroy a student's education records, as defined by the Family Educational Rights and Privacy Act, if there is an outstanding request to inspect and review the record. *34 C.F.R. 99.10(e)*.

b) Recordkeeping

As the board may require, the Records Management Officer shall keep accurate lists of records destroyed, their volume, and other information of records management activities. *Loc. Gov't*

Code 203.046.

Loc. Gov't Code 202.001.

Sec. 14. RECORDS OFFENSES

A Board member or School employee commits an offense if he or she knowingly or intentionally violates Local Government Code Title 6, Subtitle C (local government records) or rules adopted under it by destroying or alienating a local government record in contravention of Local Government Code Title 6, Subtitle C or by intentionally failing to deliver records to a successor in office as provided by Local Government Code 201.006(a). *Loc. Gov't Code 202.008*.

Sec. 15. PRESERVATION OF RECORDS

Permanent records shall be stored under conditions that meet the requirements of 13 Tex. Admin. Code § 7.164.

School records may be maintained on microfilm in addition to or instead of paper or other media, subject to the requirements of Chapter 205, Local Government Code and rules adopted by TSLAC. *Local Gov't Code 204.002*.

School record data may be stored electronically in addition to or instead of source documents in paper or other media, subject to the requirements of Chapter 205, Local Government Code and rules adopted by TSLAC. *Loc. Gov't Code 205.002*.

Sec. 16. CONTRACT SERVICES

With approval of the Board, the Records Management Officer and Committee may assign and delegate duties under this Policy to contracted services. The engagement of contract services will not relieve persons assigned and responsible under this policy from such assignment and responsibilities.

Sec. 17. SPECIAL RULES FOR EDUCATION RECORDS

The School shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student, (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records. The record of access shall be maintained with the education records of the student as long as the records are maintained. *34 C.F.R. 99.32(a)(1)*.

The Special Education Manager or designee will serve as the records custodian for the School with respect

to special education records.

PG-1.204 RECORDS RETENTION SCHEDULE

Local Schedule SD applies to charter schools and Local Schedule GR applies to all local governments. The schedules are available from the Texas state Library and Archives Commission website at https://www.tsl.texas.gov/slrm/recordspubs/localretention.html. The following from Schedule GR apply specifically to charter schools and school districts:

GR 1000-01 Agendas

Open meetings.

1) If the minutes describe each matter considered by the governing body and reference to an agenda is not required.
2) If the minutes do not describe each matter considered by the governing body and reference to an agenda is required.

GR 1000-25 Contracts, Leases, and Agreements

(a) Open meetings
   1) If the minutes describe each matter considered by the governing body and reference to an agenda is not required.
      RETENTION: Two (2) years.

   2) If the minutes do not describe each matter considered by the governing body and reference to an agenda is required.
      RETENTION: Permanent.

(b) Certified agendas of closed meetings.
   RETENTION: Two (2) years.

GR 1000-03 Minutes

(a) Written minutes.
RETENTION: Permanent.

(b) Notes taken during meetings from which written minutes are prepared.
RETENTION: 90 days after approval of minutes by the governing body.

(c) Audiotapes of open meetings, except as described in (d), for which written minutes are not

prepared.
RETENTION: Permanent.

(d) Audiotapes of workshop sessions of governing bodies in which votes are not made and written minutes are not required by law to be taken.
RETENTION: Two (2) years.

(e) Audiotapes of open meetings for which written minutes are prepared.
RETENTION: 90 days after approval of minutes by the governing body.

(f) Certified audiotapes of closed meetings.
RETENTION: Two (2) years.

(g) Supporting documentation – One copy of each document of any type submitted to a meeting of a governing body for consideration, approval, or other action, if such action is reflected in the minutes of the meeting.
RETENTION: Two (2) years.

GR 1000-26 Correspondence, Internal Memoranda, and Subject Files

Retention Note: The minimum retention period for correspondence or internal memoranda in categories (a) and (b) directly linked to another record series or group listed in this or other commission schedules is that assigned to the other group or series. The retention periods that follow are for correspondence and internal memoranda that do not readily fall within other record groups.

(a) Administrative – Incoming/outgoing and internal correspondence pertaining to the formulation, planning, implementation, modification, or redefinition of the programs, services, or projects of a local government and the administrative regulations, policies, and procedures that govern them. May also include subject files, which are collections of correspondence, memos and printed materials on various individuals, activities, and topics.
RETENTION: Four (4) years.

(b) General – Incoming/outgoing and internal correspondence pertaining to the regular operation of the policies, programs, services, or projects of a local government. May also include subject files, which are collections of correspondence, memos and printed materials on various individuals, activities, and topics.
RETENTION: Two (2) years.

(c) Routine - Correspondence and internal memoranda such as letters of transmittal, requests for publications, internal meeting notices, and similar routine matters. May also include subject files, which are collections of correspondence, memos and printed materials on various individuals, activities, and topics.
RETENTION: AV (as long as administratively valuable)

GR 1075-01 Bids and Bid Documentation

(a) Successful bids and requests for proposals, including invitations to bid, bid bonds and affidavits, bid sheets, and similar supporting documentation.
RETENTION: Fiscal year end **+ five (5) years.**
Retention Note: If a formal written contract is the result of a successful bid or request for proposal, the successful bid or request for proposal and its supporting documentation must be retained for the same period as the contract. See item number GR1000-25.

(b) Unsuccessful bids.
RETENTION: Two (2) years.

(c) Requests for informal bid estimates, quotes, or responses from providers for the procurement of goods or services for which state law or local policy does not require the formal letting of bids.
RETENTION: One (1) year.

(d) Requests for information (RFI) preliminary to the procurement of goods or services by direct purchase or bid.
RETENTION: AV

GR 1075-03 Purchase Order and Receipt Records

(a) Purchase orders, requisitions, and receiving reports.
RETENTION: Fiscal year end **+ five (5) years**

(b) Purchasing log, register, or similar record providing a chronological record of purchase orders issued, orders received, and similar data on procurement status.
RETENTION: Fiscal year end **+ three (3) years**

(c) Packing slips and order acknowledgments.
RETENTION: AV

(d) Vendor and commodity lists.
RETENTION: Until superseded

GR 1075-16 Construction Project Records

(a) Records concerning the planning, design, construction, conversion, or modernization of local government-owned facilities, structures, and systems, including feasibility, screening, and implementation studies; topographical and soil surveys and reports; architectural and engineering drawings, elevations, profiles, blueprints, and as-builts; inspection and investigative reports; laboratory test reports; environmental impact statements; construction contracts and bonds; correspondence; and similar documentation except as described in (b), (c) or (d).
RETENTION: Permanent.
Retention Note: If a structure, facility, or system is sold or transferred to another person or entity, the local government must retain the original records relating to its construction.

Copies of the records may be given to the person or entity to which the structure, facility, or system is sold or transferred.

(b) Records of the types described in GR1075-16a relating to the construction of prefabricated storage sheds, bus shelters, parking lot kiosks, non-structural recreational facilities such as baseball diamonds and tennis courts, and similar structures and facilities.
RETENTION: Completion of the project **+ ten (10) years.**

(c) Records relating to construction projects described in GR1075-16a and GR1075-16b, that are transitory or of ephemeral relevance, and are not required for maintaining, modifying, and repurposing the building or structure. Records may include, but are not limited to, rejected design plans, delivery tickets for expendable products, daily work reports, etc.
RETENTION: Five (5) years.

(d) Line Locate Requests, Call Before You Dig records, or other similar records documenting requests for information regarding locations of the underground cable or utility lines.
RETENTION: Completion of project requiring the locate request **+ two (2) years.**

PG-1.205 PUBLIC COMPLAINTS

Sec. 1. COMPLAINTS BY MEMBERS OF THE PUBLIC

There is no requirement that the Board negotiate or even respond to complaints. However, the Board must stop, look, and listen and must consider the petition, address, or remonstrance. *Prof'l Ass'n of Coll. Educators v. El Paso Cmty. Coll. Dist., 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)*

The complaint process described in this policy shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or "mini-trial" at any level.

Sec. 2. GENERAL RULES FOR COMPLAINTS

In this policy, the terms "complaint" and "grievance" shall have the same meaning.

Complaints by members of the public must be filed under this policy, unless the terms of another policy apply. In such instance, Richard Milburn Academy shall inform the complainant of the complaint policy that will be used in response to a grievance by a member of the public.

Richard Milburn Academy encourages the public to discuss concerns and complaints through informal conferences with the appropriate administrator. Concerns should be raised as soon as possible to allow early resolution at the lowest possible administrative level.

Informal resolution is encouraged, but will not extend any deadlines in this policy except by written mutual consent.

Sec. 3. FILING A COMPLAINT

a) General

Complaint forms and appeal notices must be filed by hand-delivery, by electronic communication (email or fax), or by U.S. Mail. Hand-delivered filings will be timely filed if received by the appropriate administrator or designee by the close of business on the deadline. Filings submitted by electronic communication shall be timely filed if they are received by the close of business on the deadline, as indicated by the date/time shown on the electronic communication. Mail filings shall be timely filed if they are postmarked by U.S. Mail on or before the deadline and received by the appropriate administrator or designee no more than three days after the deadline.

b) Conferences

Richard Milburn Academy shall make reasonable attempts to schedule conferences at a mutually agreeable time. If the individual fails to appear at a scheduled conference, Richard Milburn Academy may issue a decision in the individual's absence.

c) Response

At Levels One and Two, "response" shall mean a written communication to the individual from the appropriate administrator. Responses may be hand-delivered, sent by electronic communication to the individual's email address of record, or sent by U.S. Mail to the individual's mailing address of record. Mailed responses shall be timely if they are postmarked by U.S. Mail on or before the deadline.

If the administrator addressing the complaint determines that additional time is needed to complete a thorough investigation of the complaint and/or to issue a response, the administrator shall inform the complainant in writing of the necessity to extend the response time and a specific date by which the response will be issued.

d) Consolidating Complaints

Complaints arising out of an event or a series of related events shall be addressed in one complaint. Richard Milburn Academy may consolidate separate or serial complaints that have been or could have been addressed in a previous complaint.

e) Days

The term "days" shall mean Richard Milburn Academy business days. The day a document is filed is "day zero." The following school business day is considered "day one."

f) Representative

"Representative" means any person or organization that is designated by an individual to represent

the individual in the complaint process.

An individual may designate a representative through written notice to Richard Milburn Academy at any level of the process. If the individual designates a representative with fewer than three days' notice to Richard Milburn Academy before a scheduled conference or hearing, Richard Milburn Academy may reschedule the conference or hearing to a later date, if desired, in order to include Richard Milburn Academy's counsel. Richard Milburn Academy may be represented by counsel at any level of the process.

g) Untimely Filings

If a written complaint or appeal notice is not timely filed, the complaint may be dismissed, on written notice to the individual, at any point during the complaint process. The individual may appeal the dismissal by seeking review in writing within ten days from the date of the written dismissal notice, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness.

h) Costs Incurred

Each party shall pay its own costs incurred in the course of the complaint.

i) Grievance Forms

Complaints and appeals under this policy shall be filed in writing on a form provided by Richard Milburn Academy.

Copies of all documents that support the complaint should be attached to the complaint form. If the individual does not have copies of these documents, they may be presented at the Level One conference. After the Level One conference, no new documents may be submitted by the individual unless the individual did not know the documents existed before the Level One conference.

A complaint or appeal form that is incomplete in any material aspect may be dismissed but may be refiled with all required information, if the refiling is within the designated time for filing.

Sec. 4. COMPLAINTS AND APPEALS

Level One

Complaints must be filed:

1. Within fifteen business days of the date the individual first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint; and

2. With the lowest level administrator who has authority to remedy the alleged problem.

If the only administrator who has authority to remedy the complaint is the Superintendent or designee, the complaint may begin at Level Two following the procedure, including deadlines, for filing the complaint form at Level One.

The appropriate administrator shall investigate as necessary and schedule a conference with the complainant within ten business days after receipt of the written complaint. The administrator may set reasonable time limits for the conference.

The administrator may provide the individual with a written response within ten business days following the conference. In reaching a decision, the administrator may consider information provided at the Level One conference and any other relevant documents or information the administrator believes will help resolve the complaint.

Level Two

If the individual did not receive the relief requested at Level One or if the time for a response has expired, he or she may request a conference with the Superintendent or designee to appeal the Level One decision.

The appeal notice must be filed, in writing, within ten business days of the date of the written Level One decision or, if no response was received, within ten business days of the Level One response deadline.

After receiving notice of the appeal, the Level One administrator shall prepare and forward a record of the Level One complaint to the Superintendent or designee. This record shall include:

1. The original complaint form and any attachments.
2. All other documents submitted by the individual at Level One.
3. The written response issued at Level One and any attachments.
4. All other documents relied upon by the Level One administrator in reaching the Level One decision.

The Superintendent or designee shall hold a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues presented by the individual at Level One and identified in the Level Two appeal notice. The Superintendent or designee may set reasonable time limits for the conference.

The Superintendent or designee may provide the individual a written response within ten business days following the conference. In reaching a decision, the Superintendent or designee may consider the Level One record, information provided at the Level Two conference, and any other relevant documents or information the Superintendent or designee believes will help resolve the complaint.

Recordings of the Level One and Level Two conferences, if any, shall be maintained with the Level One and Level Two records.

Level Three

If the individual did not receive the relief requested at Level Two or if the time for a response has expired, he or she may appeal the decision to the Board.

The appeal notice must be filed, in writing, within ten business days of the date of the written Level Two response or, if no response was received, within ten business days of the Level Two response deadline.

The Superintendent or designee shall inform the individual of the date, time, and place of the Board meeting at which the complaint will be on the agenda for consideration by the Board.

The Superintendent or designee shall provide the Board with the record of the Level Two appeal, which shall include:

1. The Level One record.
2. The notice of appeal from Level One to Level Two.
3. The written response issued at Level Two and any attachments.
4. All other documents relied upon by the administration in reaching the Level Two decision.

The appeal shall be limited to the issues and documents considered at Level Two, except that if at Level Three the administration intends to rely on evidence not included in the Level Two record, the administration shall provide the individual notice of the nature of the evidence at least three calendar days before the Board meeting.

Richard Milburn Academy shall determine whether the complaint will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law.

The presiding officer may set reasonable time limits and guidelines for the presentation, including an opportunity for the individual and administration to each make a presentation and provide rebuttal and an opportunity for questioning by the Board. The Board shall hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels. The Board may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. The lack of a decision by the Board constitutes approval of the Level Two decision.

The Board is Richard Milburn Academy's final authority to hear or decide citizen complaints. *19 TAC § 100.1113(a)(1)(A)100.1033(13)(C)(i).*

Failure of the Board to take action on the complaint or schedule a complaint offered at Public Comments on a future agenda indicates the Board's approval of the decision below.

Sec. 5. FREEDOM FROM RETALIATION

Neither the Board nor any Richard Milburn Academy employee shall unlawfully retaliate against any individual for bringing a concern or complaint.

PG-1.206 PARENTAL ENGAGEMENT

Sec. 1. Parental Engagement

The Board has adopted the following standards for encouraging parental engagement, in accordance with Education Code 26.0071:

a) Internet Portal

The Superintendent or designee shall develop an Internet portal through which parents of students enrolled in Richard Milburn Academy may submit comments to campus or district administrators and the Board.

b) Prioritizing Public Comments

The Board shall prioritize public comments by presenting such comments at the beginning of each Board meeting.

c) Scheduling Board Meetings

Richard Milburn Academy shall convene board meetings outside of the districts' established working hours, which are defined as 9:00 a.m. to 5:00 p.m. Accordingly, all Board meetings shall be scheduled to commence no earlier than 5:30 p.m.

PG-1.301 SCHOOL PROPERTY

Sec. 1. RICHARD MILBURN ACADEMY/TEXAS, INC. PROPERTY GENERALLY

The Board of Richard Milburn Academy/Texas, Inc. shall be the final authority for authorizing the use of Public Property. *19 TAC 100.1113(a)(1)(B)), 100.1091(c)(4).* Richard Milburn Academy/Texas, Inc. shall not authorize use or application of public property inconsistent with this policy.

Sec. 2. PUBLIC PROPERTY DEFINED

An interest in real estate or personal property acquired, improved, or maintained using state funds that were received by Richard Milburn Academy/Texas, Inc. on or after September 1, 2001 is public property for all purposes under state law. The date on which the property was acquired, improved, or maintained is not determinative. An interest in real estate acquired, improved, or maintained using state funds that were received by the charter holder before September 1, 2001, is public property only to the extent specified by 19 TAC § 100.1093 (relating to Property Acquired with State Funds Received Before September 1, 2001–Special Rules). Where the property is acquired with federal funds, federal law may preempt this policy and state law in whole or part.

19 TAC 100.1091(a).

Sec. 3. FIDUCIARY RESPONSIBILITIES

Public property is held by Richard Milburn Academy/Texas, Inc. in trust for the benefit of Richard Milburn Academy's students. With respect to the public property they manage, the Board and officers of Richard Milburn Academy/Texas, Inc. and Richard Milburn Academy are trustees under Texas law and the students enrolled in Richard Milburn Academy are beneficiaries of a trust. Each trustee shall be held to the standard of care and fiduciary duties that a trustee owes the beneficiary of a trust under Texas law. *Education Code 12.128; 19 TAC 100.1091(b).*

Public property may be used only for a purpose for which a school district may use school district property, implementing a program described in Richard Milburn Academy/Texas Inc.'s open- enrollment charter and only to implement a program that is described in the open-enrollment charter and is consistent with law and administrative rule. *Education Code 12.128; 19 TAC 100.1091(c).*

Notwithstanding the delegation of authority, the Board and officers of Richard Milburn Academy/Texas Inc. and Richard Milburn Academy shall remain fully responsible to authorize all uses and applications of public property and to enforce this policy.

The person or entity to which any power or duty is delegated shall be held to the same standards as the governing body with respect to use of property, funds or resources, and including as fiduciaries to the students enrolled in the charter school and must act in the best interest of the students, and may be held liable under TEC, §12.122, for breach of fiduciary duty, including misapplication of public funds. *19 TAC 100.1113(e).*

Sec. 4. PERSONAL USE OF PUBLIC PROPERTY

Except as provided below, Richard Milburn Academy employees shall use Richard Milburn Academy/Texas, Inc. public property only for purposes described in the Richard Milburn Academy/Texas, Inc. charter. *19 TAC 100.1091(c)(2).*

Richard Milburn Academy employees may, however, use local telephone service, Richard Milburn Academy/Texas, Inc. -issued cellular phones, electronic mail, Internet connections, and similar property for incidental personal use, provided that such personal use does not, as determined by the Richard Milburn Academy administration, impede Richard Milburn Academy functions or result in direct cost(s) paid with state funds. Should employee use result in direct cost paid with state funds, Richard Milburn Academy shall require the employee incurring the cost(s) to reimburse Richard Milburn Academy/Texas, Inc. for such cost(s) within five business days of Richard Milburn Academy's having incurred the cost(s). *19 TAC 100.1091(c)(2).*

Only incidental amounts of employee time, comparable to a five–seven-minute coffee break during each day, may be used by employees for such personal matters. *19 TAC 100.1091(c)(2).*

This policy does not authorize incidental personal use of public property for private commercial purposes. Any such incidental use of public property is a privilege not a right, and the Richard Milburn Academy administration may remove or rescind such privilege from time to time on a case-by-case basis for any employee, or all employees. *19 TAC 100.1091(c)(2).*

Sec. 5. USE OF PUBLIC PROPERTY REAL ESTATE FOR CHARTER AND NON-CHARTER ACTIVITIES

Joint use of Richard Milburn Academy/Texas, Inc.'s public real property for charter and non- charter activities shall be approved by separate vote and recorded in the minutes of the meeting of the Board of Richard Milburn Academy/Texas, Inc., setting forth the methodology to be used to allocate shared costs and the percentage allocation basis between charter and non-charter activities. *19 TAC 100.1091(c)(3).*

Sec. 6. CONTRACT FOR USE OF PUBLIC PROPERTY

Richard Milburn Academy/Texas, Inc. may contract for the use of its property for the purpose of providing goods or services under the contract, if such use is an express contract term, factored into the price of the contract, and the contract is one that is authorized by the Board. *19 TAC 100.1091(c)(6).*

Sec. 7. ACCOUNTING FOR PUBLIC PROPERTY

Richard Milburn Academy/Texas, Inc.'s annual audit report shall separately disclose the cost basis and accumulated depreciation of public or privately held or owned property held, acquired, improved, or maintained by Richard Milburn Academy/Texas, Inc.'s operating Board and charter holder, or provide with the annual audit report a statement that all property acquired, improved, or maintained during the term of Richard Milburn Academy/Texas, Inc.'s charter, and all property presently held by the charter holder Board, is public property. *19 TAC 100.1091(f).*

Sec. 8. RETURN OF RICHARD MILBURN ACADEMY PROPERTY

Upon separation of employment with Richard Milburn Academy or cessation of volunteer services, or upon the request of Richard Milburn Academy, an individual will return to Richard Milburn Academy/Texas, Inc. all such materials, including copies thereof, in the individual's possession or under the individual's control. Such materials will be returned within 24 hours of notice of separation or upon request of Richard Milburn Academy, whichever comes first.

The cost of repairing or replacing any supplies, materials, or equipment belonging to Richard Milburn Academy/Texas, Inc., or other property that is damaged (other than normal wear and tear), stolen, or lost by an employee or that is not returned to Richard Milburn Academy/Texas, Inc.

upon separation of employment may be deducted from the employee's wages, so long as the deduction does not take the employee's pay below minimum wage or, if the employee is a salaried employee, reduce the salary below its predetermined amount and so long as the employee has signed an appropriate wage deduction authorization form.

Any materials created by staff members for use by Richard Milburn Academy, or created on Richard Milburn Academy's time, or produced using the staff or resources of Richard Milburn Academy, are considered works-for-hire and all intellectual property rights are vested exclusively in Richard Milburn Academy/Texas, Inc.

PG- 1.302 BOARD MEMBERS TECHNOLOGY RESOURCES AND ELECTRONIC COMMUNICATIONS

For purposes of this policy, "technology resources" means electronic communication systems and electronic equipment.

Sec. 8. AVAILABILITY OF ACCESS

Access to Richard Milburn Academy's technology resources, including the internet, shall be made available to Board members primarily for official duties and in accordance with administrative regulations.

Sec. 9. LIMITED PERSONAL USE

Limited personal use of Richard Milburn Academy's technology resources shall be permitted if the use:

1. Imposes no tangible cost on Richard Milburn Academy; and
2. Does not unduly burden Richard Milburn Academy's technology resources.

Sec. 3. ACCEPTABLE USE

A Board member shall be required to acknowledge receipt and understanding of the user agreement governing use of Richard Milburn Academy's technology resources and shall agree in writing to allow monitoring of their use. Noncompliance may result in suspension of access or termination of privileges. Violations of law may result in criminal prosecution.

Sec. 4. MONITORED USE

Electronic mail transmissions and other use of Richard Milburn Academy's technology resources by a Board member shall not be considered private. The Superintendent or designee shall be authorized to monitor Richard Milburn Academy's technology resources at any time to ensure appropriate use.

Sec. 5. DISCLAIMER OF LIABILITY

Richard Milburn Academy shall not be liable for a Board member's inappropriate use of technology resources, violations of copyright restrictions or other laws, mistakes or negligence, and costs incurred. Richard Milburn Academy shall not be responsible for ensuring the availability of Richard Milburn Academy's technology resources or the accuracy, appropriateness, or usability of any information found on the Internet.

Sec. 6. RECORDS RETENTION

A Board member shall retain electronic records, whether created or maintained using Richard Milburn Academy's technology resources or using personal technology resources, in accordance with Richard Milburn Academy's record management program.

PG-1.303 ACCESSIBILITY – TECHNOLOGY RESOURCES

Sec. 1. SCHOOL WEBSITE

Richard Milburn Academy will maintain a website for informing employees, students, parents, and members of the community of school programs, policies, and practices. Requests for publication of information on the Richard Milburn Academy website must be directed to the Director of Marketing, Communications & Business Development or designee. The Director of Marketing, Communications & Business Development or designee will establish guidelines for the development and format of web pages controlled by Richard Milburn Academy. These guidelines shall incorporate the benchmarks for measuring website accessibility identified in Section 2 and Section 3 of this policy.

Sec. 2. WEBSITE ACCESSIBILITY

Richard Milburn Academy is committed to compliance with the provisions of Title II of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973 so that students, parents, and members of the public with disabilities able to independently acquire the same information, engage in the same interactions, and enjoy the same benefits and services within the same timeframe as those without disabilities, and not be excluded from participation in, denied the benefit of, or otherwise subjected to discrimination through any of Richard Milburn Academy's web content.

Sec. 3. PLAN FOR ONLINE CONTENT

All Richard Milburn Academy staff granted permission to post online content to the Richard Milburn Academy website must ensure that all new, newly added, or modified online content and functionality meets the following benchmarks for measuring accessibility:

1. the World Wide Web Consortium's (W3C's) Web Content Accessibility Guidelines (WCAG) 2.0 Level AA; and
2. the Web Accessibility Initiative Accessible Rich Internet Applications Suite (WAI-ARIA)

1.0 for web content.

When adding new content to a page, or editing existing content, the content owner/editor may contact the Director of Marketing, Communications & Business Development or designee to discuss accessibility resources and/or support for accessibility testing. The Director of Marketing, Communications & Business Development or designee will also provide content owners/editors instruction regarding accessibility standards and testing necessary before adding third-party content to their pages.

If information cannot be made accessible without an undue burden or fundamentally altering the nature of a Richard Milburn Academy program, benefit, or service, the information will be made available in an alternate format, to the maximum extent possible.

Sec. 4. MONITORING

The Director of Marketing, Communications & Business Development or designee will perform an accessibility audit at least once per year. All web pages housed and distributed through the Richard Milburn Academy website will be measured against the W3C's WCAG 2.0 Level AA standards. The content owner/editor will have the option to either fix the issue within 30 days or remove the page or element that does not meet the applicable accessibility standard.

Richard Milburn Academy may also engage an outside auditor to conduct the annual accessibility audit.

Sec. 5. TRAINING

Annual training on website accessibility will be provided to web content owners/editors who are responsible for creating and/or distributing information through the Richard Milburn Academy website. The training will include information regarding the roles and responsibilities of staff to ensure that web design, documents, and multimedia content are accessible.

Sec. 6. WEBSITE ASSISTANCE

An individual having difficulty accessing information on the Richard Milburn Academy website may contact the Director of Marketing, Communications & Business Development or designee to report accessibility issues. The individual should provide the following information to Richard Milburn Academy:

- A description of the accessibility concern.
- The format in which the person prefers to receive the materials.
- The web page address of the requested material(s).
- The best way to contact the person (email address or phone number, or both).

Additionally, any individual may submit a written complaint or grievance related to the

accessibility of the Richard Milburn Academy website through the process outlined in Board Policy PG-1.10 (Public Complaints). A complaint should be filed within the timeframe referenced in Board Policy PG-1.10 (Public Complaints).

If content is not readily available in an accessible format, Richard Milburn Academy will have the option to either fix the issue within a reasonable time period or remove the page or element that does not meet the applicable accessibility standard. Richard Milburn Academy may also make the information available in an alternate format, to the maximum extent possible.

PG-1.304 INTERNET SAFETY AND CYBERSECURITY

Sec. 1. Introduction

It is the policy of Richard Milburn Academy to:

(a) Prevent user access over its computer network to, or transmission of, inappropriate material via Internet, electronic mail, or other forms of direct electronic communications;
(b) Prevent unauthorized access and other unlawful online activity;
(c) Prevent unauthorized online disclosure, use, or dissemination of personal identification information of minors; and
(d) Comply with the Children's Internet Protection Act ("CIPA"), the Neighborhood Children's Internet Protection Act ("NCIPA"), and the Protecting Children in the 21st Century Act, to the extent such laws are applicable to Richard Milburn Academy.[1]
(e) Establish a cybersecurity program and comply with applicable law regarding cybersecurity breach notifications and data breach notifications, to the extent such laws are applicable to Richard Milburn Academy.

It is the goal of this policy not only to prevent and protect, but also to educate employees, students, parents and the Richard Milburn Academy community in Internet safety. The CIPA guidelines for an Internet Safety Policy have also been incorporated by Richard Milburn Academy into its Acceptable Use Policy and/or Acceptable Use Agreement(s). All limitations and penalties set forth in the Acceptable Use Policy and/or Acceptable Use Agreement(s) are deemed to be incorporated into this policy. Terms used in this policy and that also appear in CIPA have the meanings defined in CIPA.

Sec. 2. Internet Safety, Compliance with the Requirements of CIPA

a) Technology Protection Measures

A Technology Protection Measure is a specific technology that blocks or filters Internet access.[2] It must

[1] CIPA requires recipients of federal technology funds to comply with certain Internet filtering and policy requirements. Schools and libraries receiving funds for Internet access and/or internal connection services must also meet the Internet safety policies of the NCIPA that addresses the broader issues of electronic messaging, disclosure of personal information of minors, and unlawful online activities. The Protecting Children in the 21st Century Act adds an additional Internet Safety Policy requirement covering the education of minors about appropriate online behavior.

[2] As defined by CIPA, the term "technology protection measure" means a specific technology that blocks or filters Internet access to visual depictions that are:

protect against access by adults and minors to visual depictions that are obscene, involve child pornography, or are harmful to minors. Richard Milburn Academy utilizes a sophisticated content filtering system that is compliant with CIPA and NCIPA on all computers that access the Internet.

b) Access to Inappropriate Material

To the extent practical, Technology Protection Measures (or "Internet filters") shall be used to block or filter Internet, or other forms of electronic communication, access to inappropriate information. Specifically, as required by CIPA, blocking shall be applied to visual and textual depictions of material deemed obscene or child pornography, or to any material deemed harmful to minors. Subject to administrative approval, technology protection measures may be disabled or, in the case of minors, minimalized only for bona fide research or other lawful purposes.

Any attempt to bypass, defeat, or circumvent the Technology Prevention Measures is punishable as a violating of this policy and of the Acceptable Use Policies.

c) Inappropriate Network Usage

To the extent practical, steps shall be taken to promote the safety and security of users of Richard Milburn Academy's online computer network when using electronic mail, chat rooms, blogging, instant messaging, online discussions and other forms of direct electronic communications. Without limiting the foregoing, access to such means of communication is strictly limited by the Acceptable Use Policies.

Specifically, as required by CIPA, prevention of inappropriate network usage includes:

unauthorized access, including so-called "hacking" and other unlawful activities; and
unauthorized disclosure, use, and dissemination of personal identification information regarding minors.

d) Supervision and Monitoring

It shall be the responsibility of all professional employees (pedagogical and administrative staff) to supervise and monitor usage of Richard Milburn Academy's computers, computer network and access to the Internet in accordance with this policy, the Acceptable Use Policies, and CIPA. Procedures for the

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1. Obscene, as that term is defined in section 1460 of title 18, United States Code;
2. Child Pornography, as that term is defined in section 2256 of title 18, United States Code; or
3. Harmful to minors.

The term "harmful to minors" means any picture, image, graphic image file, or other visual depiction that:

1. Taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;
2. Depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and
3. Taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

The terms "sexual act" and "sexual contact" have the meanings given such terms in section 2256 of title 18, United States Code.

disabling or otherwise modifying any technology protection measures shall be the responsibility of each Principal or designee.

Taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;
Depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and
Taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.
The terms "sexual act" and "sexual contact" have the meanings given such terms in section 2256 of title 18, United States Code.

e) Education

Richard Milburn Academy will advocate and education employees, students, parents and Richard Milburn Academy community on Internet safety and "cyber-bullying." Education will be provided through such means as professional development training and materials to employees, PTO/PTA presentations, and the Richard Milburn Academy website.

Additionally, the Principal or designee will provide age-appropriate training for students who use Richard Milburn Academy's Internet facilities. The training provided will be designed to promote Richard Milburn Academy's commitment to:

1. The standards and acceptable use of Internet services as set forth in the Acceptable Use Policies.
2. Student safety with regard to:
    a. safety on the Internet;
    b. appropriate behavior while online, on social networking Web sites, and in chat rooms; and
    c. cyberbullying awareness and response.
3. Compliance with the E-rate requirements of CIPA.

Following receipt of this training, the student will acknowledge that he/she has received the training, understood it, and will follow the provisions of the Acceptable Use Policy and/or Acceptable Use Agreement(s).

f) Cyberbullying

The Acceptable Use Policies include provisions intended to prohibit and establish penalties for inappropriate and oppressive conduct, including cyber-bullying.

Richard Milburn Academy is a place of tolerance and good manners. Students may not use the network or any Richard Milburn Academy computer facilities for hate mail, defamatory statements, statements intended to injure or humiliate others by disclosure of personal information (whether true or false), personal attacks on others, and statements expressing animus towards any person or group by reason of race, color, religion, national origin, gender, sexual orientation or disability.

Network users may not use vulgar, derogatory, or obscene language. Network users also may not post inappropriate anonymous messages or forge e-mail or other messages.

Furthermore, Richard Milburn Academy computers and network facilities may not be used for any activity, or to transmit any material, that violates United States, State of Texas, or local laws. This includes, but is not limited to, any threat or act of intimidation or harassment against another person.

Sec. 3. Cybersecurity

a) Definitions

For purposes of this section, the following definitions apply:

"Breach of system security" means an incident in which student information that is sensitive, protected, or confidential, as provided by state or federal law, is stolen or copied, transmitted, viewed, or used by a person unauthorized to engage in that action. *Education Code 11.175(a)*.

"Cyber attack" means an attempt to damage, disrupt, or gain unauthorized access to a computer, computer network, or computer system. *Education Code 11.175(a)*.

"Cybersecurity" means the measures taken to protect a computer, computer network, or computer system against unauthorized use or access. *Education Code 11.175(a)*.

b) Cybersecurity Policy

Richard Milburn Academy shall adopt a cybersecurity policy to:

1. Secure school cyberinfrastructure against cyber-attacks and other cybersecurity incidents; and
2. Determine cybersecurity risk and implement mitigation planning.

c) Cybersecurity Coordinator

The Superintendent shall designate a cybersecurity coordinator to serve as a liaison between the school and the Texas Education Agency (TEA) in cybersecurity matters and as required by law report to TEA breaches of system security.

d) Report to TEA

Richard Milburn Academy's cybersecurity coordinator shall report to TEA, or, if applicable, the entity that administers a system developed by the TEA and the Texas Department of Information Resource (DIR) to coordinate the anonymous sharing of information concerning cyber attacks or other cybersecurity incidents between schools and the state, any cyber attack or other cybersecurity incident against the school cyberinfrastructure that constitutes a breach of system security as soon as practicable after the discovery of the attack or incident. *Education Code 11.175(e)*.

e) Report to Parent

The School's cybersecurity coordinator shall provide notice to a parent of or person standing in parental relation to a student enrolled in the School of an attack or incident for which a report is required to TEA

involving the student's information. *Education Code 11.175(f)*.

f) Cybersecurity Training

Each School employee and Board member shall annually complete a cybersecurity training program designated by the School. Additionally, the School shall complete periodic audits to ensure compliance with the cybersecurity training requirements.

Sec. 4. Security Breach Notification

a) Definitions

For purposes of security breach notifications, the following definitions apply:

"Breach of system security" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of sensitive personal information maintained by a person, including data that is encrypted if the person accessing the data has the key required to decrypt the data. Good faith acquisition of sensitive personal information by an employee or agent of the person for the purposes of the person is not a breach of system security unless the person uses or discloses the sensitive personal information in an unauthorized manner. *Bus. & Com. Code 521.053(a)*.

"Sensitive personal information" means:

1. An individual's first name or first initial and last name in com-bination with any one or more of the following items, if the name and the items are not encrypted:

    a. Social security number;
    b. Driver's license number or government-issued identification number; or
    c. Account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to an individual's financial account; or

2. Information that identifies an individual and relates to:

    a. The physical or mental health or condition of the individual;
    b. The provision of health care to the individual; or
    c. Payment for the provision of healthcare to the individual.

"Sensitive personal information" does not include publicly available information that is lawfully made available to the public from the federal government or a state or local government.

Bus. & Com. Code 521.053(a)(2),(b).

b) To Individuals

A School that owns, licenses, or maintains computerized data that includes sensitive personal information

shall disclose any breach of system security, after discovering or receiving notification of the breach, to any individual whose sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made without unreasonable delay and in each case not later than the 60th day after the date on which the School determines that the breach occurred, except as provided at Criminal Investigation Exception, below, or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system. *Bus. & Com. Code 521.053(b)*.

c) Resident of Other State

If the individual whose sensitive personal information was or is reasonably believed to have been acquired by an unauthorized person is a resident of a state that requires a person that owns or licenses computerized data to provide notice of a breach of system security, the notice of the breach of system security required under Notice, below, may be provided under that state's law or under Notice, below. *Bus. & Com. Code 521.053(b-1)*.

d) To the Owner or License Holder

A School that maintains computerized data that includes sensitive personal information not owned by the School shall notify the owner or license holder of the information of any breach of system security immediately after discovering the breach, if the sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person. *Bus. & Com. Code 521.053(c)*.

e) Notice

Upon discovering or receiving notification of a breach of system security, <<School Name>> shall disclose the breach to affected persons or entities in accordance with the time frames established by law and this policy.

Richard Milburn Academy shall give notice by using one or more of the following methods in compliance with applicable law;

1. Written notice.
2. Electronic mail, if Richard Milburn Academy has electronic mail addresses for the affected persons.
3. Conspicuous posting on Richard Milburn Academy’s website.
4. Publication through broadcast media.

The school’s cybersecurity coordinator shall disclose a breach involving sensitive, protective, or confidential student information to TEA and parents in accordance with applicable law.

Bus. & Com. Code 521.053(e), (f).

f) Information Security Policy

A school that maintains its own notification procedures as part of an information security policy for the treatment of sensitive personal information that complies with the timing requirements for notice

described above complies with the notice requirements if the school notifies affected persons in accordance with that policy. *Bus. & Com. Code 521.053(g)*.

g) To the Attorney General

A school that is required to disclose or provide notification of a breach of system security under these provisions shall notify the attorney general of that breach not later than the 60th day after the date on which the School determines that the breach occurred if the breach involves at least 250 residents of this state. The notification must include:

1. A detailed description of the nature and circumstances of the breach or the use of sensitive personal information acquired as a result of the breach;
2. The number of residents of this state affected by the breach at the time of notification;
3. The number of affected residents that have been sent a disclosure of the breach by mail or other direct method of communication at the time of notification;
4. The measures taken by the School regarding the breach;
5. Any measures the School intends to take regarding the breach after the notification described at Notice, above; and
6. Information regarding whether law enforcement is engaged in investigating the breach.

Bus. & Com. Code 521.053(i).

h) To a Consumer Reporting Agency

If the School is required to notify at one time more than 10,000 persons of a breach of system security, the School shall also notify each consumer reporting agency, as defined by 15 U.S.C. 1681a, that maintains files on consumers on a nationwide basis, of the timing, distribution, and content of the notices. The School shall provide the notice without unreasonable delay. *Bus. & Com. Code 521.053(h)*.

i) Criminal Investigation Exception

A School may delay providing the required notice to individuals or the owner or license holder at the request of a law enforcement agency that determines that the notification will impede a criminal investigation. The notification shall be made as soon as the law enforcement agency determines that the notification will not compromise the investigation. *Bus. & Com. Code 521.053(d)*.

PG-1.305 TRANSFER OF EQUIPMENT AND DEVICES TO STUDENTS

Sec. 1. Definitions

“Data processing” has the meaning assigned by Section 2054.003, Government Code.

“Electronic device” means a device that is capable of connecting to a cellular network or the Internet, including: (i) a computer; (ii) a smartphone; or (iii) a tablet.

“Internet filter” means a software application that is capable of preventing an electronic device from accessing certain websites or displaying certain online material.

Education Code 32.101.

Sec. 2. Standards for Permissible Electronic Devices and Software Applications

The Superintendent shall adopt standards for permissible electronic devices and software applications used by Richard Milburn Academy. Such standards shall comply with the *Standards for Permissible Electronic Devices and Software Applications* published by the Texas Education Agency.

Sec. 3. Authority to Transfer Equipment to Students

a) Student Eligibility

A student is eligible to receive data processing equipment under this policy only if the student does not otherwise have home access to data processing equipment, as determined by Richard Milburn Academy. In transferring data processing equipment to students, Richard Milburn Academy shall give preference to educationally disadvantaged students. *Education Code 32.103*.

b) Equipment Eligible for Transfer

Richard Milburn Academy may transfer to a student enrolled in the school:

1. Any data processing equipment donated to Richard Milburn Academy including equipment donated by (i) a private donor or (ii) a state eleemosynary institution or a state agency under section 2175.905, Government Code;
2. Any equipment purchased by Richard Milburn Academy to the extent consistent with Education Code 32.105; and
3. Any surplus or salvage equipment owned by Richard Milburn Academy.

Educ. Code 31.102(a).

c) Requirements for Transfer

Before transferring data processing equipment or an electronic device to a student, the Superintendent must:

1. Adopt rules governing transfers under this policy, including provisions for technical assistance to the student by Richard Milburn Academy;
2. Determine that the transfer serves a public purpose and benefits Richard Milburn Academy;
3. Remove from the equipment any offensive, confidential, or proprietary information, as determined by Richard Milburn Academy;
4. Adopt rules establishing programs for promoting parents as partners in cybersecurity and online safety that involve parents in students' use of transferred equipment or electronic devices; and
5. For the transfer of an electronic device to be used for an educational purpose, install an Internet filter that blocks and prohibits pornographic or obscene materials or applications, including from unsolicited pop-ups, installations, and downloads.

Education Code 32.104.

d) Return of Equipment

Except as provided below, a student who receives data processing equipment from Richard Milburn Academy shall return the equipment to Richard Milburn Academy not later than the earliest of:

1. Five years after the date the student receives the equipment;
2. The date the student graduates;
3. The date the student transfers to another school district or open-enrollment charter school; or
4. The state the student withdraws from school.

The requirement for a student to return data processing equipment does not apply if, at the time the student would otherwise be required to return the equipment, Richard Milburn Academy determines that the equipment has no marketable value.

Education Code 32.106.

e) Accepting Donations

Richard Milburn Academy may accept:

1. Donations of data processing equipment for transfer under Subchapter C, Chapter 32, Texas Education Code; or
2. Any gifts, grants, or donations of money or services to purchase, refurbish, or repair data processing equipment under Subchapter C, Chapter 32, Texas Education Code.

Educ. Code 31.102(b).

f) Expenditure of Public Funds

Richard Milburn Academy may spend public funds to:

1. Purchase, refurbish, or repair any data processing equipment transferred to a student under this policy; and
2. Store, transport, or transfer data processing equipment under this policy.

Education Code 32.105.

PG-1.306 USE OF DIGITAL DEVICES

SEC. 1. GUIDELINES FOR USE OF DIGITAL DEVICES

The Superintendent or designee shall develop protocols for the effective integration of digital devices in public schools. Such protocols must:

1. Be based on evidence-based studies and practices;
2. Consider the needs of students with intellectual or physical disabilities;
3. Consider the potential costs of implementation of the guidelines and affordable ways to reduce the hazards associated with the extended use of digital devices; and
4. Address:
    a. Digital device use for varying age ranges and developmental levels;
    b. The amount of time a student spends using digital devices in the classroom;
    c. Appropriate frequency for breaks to complete homework assignments;
    d. Recommended total daily screen time usage for students;
    e. Recommended practices or software to block access to inappropriate content; and
    f. Recommended teacher training regarding digital device use in the classroom to ensure implementation of the best practices.

Education Code 38.0231.

SEC. 2. USE OF STATE-DEVELOPED PROTOCOLS

In developing the protocols referenced in Section 1, the Superintendent or designee may implement guidelines promulgated by the Texas Education Agency and the Health and Human Services Commission. If the state-developed guidelines are adopted, Richard Milburn Academy may implement them in a manner that best meets Richard Milburn Academy's individual needs and the individual needs of students, including students with individual or physical disabilities. Additionally, if Richard Milburn Academy adopts the state-developed guidelines, Richard Milburn Academy shall post the guidelines publicly on its Internet website. *Education Code 38.0231(b)-(d)*.

PG-1.401 SCHOOL VISITORS

Sec. 1. PROCEDURES FOR SCHOOL VISITORS

Notices shall be posted at each Richard Milburn Academy campus requiring all visitors to first report to the campus administrative office. This policy shall apply to parents, board members, volunteers, social service workers, invited speakers, maintenance and repair persons not employed by Richard Milburn Academy, vendors, representatives of the news media, former students, and any other campus visitors.

Richard Milburn Academy or the Principal may:

1. Require a visitor requesting entry onto a campus to show a driver's license or other form of identification issued by a governmental entity displaying the visitor's photograph.
2. Establish an electronic or paper database for storing campus visitor information. Information stored in the campus databases may be used only for purposes of Richard Milburn Academy security, and may not be sold or otherwise disseminated to third parties.
3. Verify whether the visitor is a registered sex offender as identified in the computerized central database maintained by the Department of Public Safety, or in any other database accessible by Richard Milburn Academy.

Richard Milburn Academy or the Principal may eject a person from school property if:

1. The person refuses or fails to provide on request identification described above; and
2. It reasonably appears that the person has no legitimate reason to be on school property.

Education Code 38.022(a-1).

A visit by visitors to individual classrooms during instructional time requires prior approval of both the campus Principal and teacher whose class is to be visited. Such visits may not be approved or may be terminated where their duration or frequency interferes with the delivery of instruction or in any other way disrupts the educational environment.

Sec. 2. NOTICE OF ENTRY BY REGISTERED SEX OFFENDERS

The Superintendent or designee, in conjunction with campus administrators, shall develop and implement procedures addressing campus visitors identified as registered sex offenders. These procedures shall include but are not limited to provisions dealing with:

1. Access to classrooms;
2. Access to common areas of the campus;
3. Drop off and release of students;
4. Eligibility to serve as volunteers
5. Escorts by Richard Milburn Academy personnel;
6. Parental rights to visit;and
7. Any other relevant issues

A registered sex offender who enters Richard Milburn Academy premises (meaning a building or portion of a building and the grounds on which the building is located, including any public or private driveway, street, sidewalk or walkway, parking lot, or parking garage on the grounds) during standard operating hours of the school shall immediately notify the administrative office of the school of the person's presence on the premises of the school and the person's registration status. The office may provide a chaperone to accompany the person while the person is on the premises of the school.

These requirements do not apply to:

1. A student enrolled in Richard Milburn Academy;
2. A student from another school participating in an event at Richard Milburn Academy; or
3. A person who has entered into a written agreement with Richard Milburn Academy that exempts the person from these requirements.

Sec. 3. VISITOR CONDUCT

Richard Milburn Academy invites and welcomes parents and other members of the public to its

schools. Richard Milburn Academy is committed to treating parents and other community members with respect and expects the same in return. To that end, Richard Milburn Academy must keep schools and administrative offices free from disruptions and prevent unauthorized persons from entering the schools and school grounds.

Accordingly, this policy promotes mutual respect, civility, and orderly conduct among Richard Milburn Academy employees, parents, students, volunteers and the public. Richard Milburn Academy seeks to maintain to the extent possible and reasonable, a safe, harassment-free workplace for students and staff. In the interest of presenting teachers and other employees as positive role models, Richard Milburn Academy encourages positive communication and discourages volatile, hostile, or aggressive actions. Richard Milburn Academy seeks and encourages patrons to cooperate with this endeavor.

Richard Milburn Academy recognizes the importance of employees, students, and parents engaging, collaborating, and sharing in digital environments. Accordingly, the use of technology on Richard Milburn Academy property and at school-sponsored events shall be appropriate, not disruptive to the educational environment, and not detrimental to the safety of employees and students. It must also be in compliance with other applicable Richard Milburn Academy policies.

An individual engaging in disruptive behavior shall be required to leave Richard Milburn Academy property. Any individual who disrupts or threatens to disrupt school or office operations, threatens the health and safety of students or staff, willfully causes property damage, uses loud and/or offensive language that could provoke a violent reaction, or who has otherwise established a pattern of unauthorized entry on Richard Milburn Academy property shall be directed to leave Richard Milburn Academy property by the Principal or other administrator. In certain circumstances, a criminal trespass warning may also be issued or law enforcement contacted.

Sec. 4. ACCESS TO STUDENTS BY MILITARY RECRUITERS

To the extent Richard Milburn Academy receives assistance under the ESEA, Richard Milburn Academy shall provide military recruiters the same access to secondary students as is generally provided to institutions of higher education or to prospective employers of those students. *20 U.S.C. § 7908(a)(3)*.

Except as allowed under Education Code § 29.9015(d) or (e), Richard Milburn Academy shall each year provide students in grades 10 through 12 an opportunity to take the Armed Services Vocational Aptitude Batter test and consult with a military recruiter. *Education Code § 29.9015(a)*.

PG-1.1402 POSSESION AND USE OF WEAPONS

Sec. 1. SCOPE OF POLICY

The purpose of this policy is to state the circumstances under which a firearm or weapon may be possessed or used on the premises of Richard Milburn Academy.

Sec. 2. DEFINITIONS

1. Firearm. "Firearm" means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. Firearm does not include a firearm that may have, as an integral part, a folding knife blade or other characteristics of weapons made illegal by this chapter and that is: (A) an antique or curio firearm manufactured before 1899; or (B) a replica of an antique or curio firearm manufactured before 1899, but only if the replica does not use rim fire or center fire ammunition. *Penal Code 46.01(3)(A)-(B)*.

2. Handgun. "Handgun" means any firearm that is designed, made, or adapted to be fired with one hand. *Penal Code 46.01(5)*.

3. Location-restricted knife. "Location-restricted knife" means a knife with a blade over five and one-half inches. *Penal Code 46.01(6)*.

4. Club. "Club" means an instrument that is specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, and includes but is not limited to the following:

    (A) blackjack;
    (B) nightstick;
    (C) mace;
    (D) tomahawk.

    Penal Code 46.01(1)(A)-(D).

5. Prohibited Weapon. A "prohibited weapon" shall include

    (1) any of the following items, unless the item is registered in the National Firearms Registration and Transfer Record maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives or otherwise not subject to that registration requirement or unless the item is classified as a curio or relic by the United States Department of Justice:

        (A) an explosive weapon;
        (B) a machine gun; or
        (C) a short-barrel firearm;

    (2) armor-piercing ammunition;
    (3) a chemical dispensing device;
    (4) a zip gun;
    (5) a tire deflation device; or
    (6) an improvised explosive device.

    Penal Code 46.05(a).

6. School Premises. "Premises" means a building or a portion of a building owned or leased by the School. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area. *Penal Code 46.03(c)(4).*

Sec. 3. PROHIBITION OF FIREARMS AND WEAPONS PER SCHOOL POLICY

A. On School Premises. Richard Milburn Academy prohibits the use, display or possession of firearms, handguns, location-restricted knives, clubs, and prohibited weapons on School Premises unless explicitly permitted in this policy or unless otherwise permitted by applicable federal or state law. This prohibition and related exceptions apply to all individuals on School Premises including but not limited to charter holder board members, charter school board members, employees, students, parents, vendors, contractors, and visitors.

B. At School Board Meetings. Firearms are prohibited in the room or rooms where a public meeting of the governing body of Richard Milburn Academy is being held pursuant to a properly noticed meeting under the open meetings law. *Penal Code § 46.03(a)(14).*

Sec. 4. PROHIBITION OF FIREARMS IN A SCHOOL ZONE UNDER FEDERAL LAW AND EXCEPTIONS

A. Prohibition of Firearms under Federal Law. Per the federal Gun Free School Zones Act, Richard Milburn Academy prohibits the possession of firearms on or near school property. Thus, an individual may not knowingly possess a firearm in a school zone. For purposes of this federal law, the term "school zone" means property in, or on the grounds of, or within 1,000 feet from the grounds of a public, parochial, or private school.

B. Exception to the Federal Prohibition: The federal prohibition does not apply to the possession of a firearm:

a. When the carrier is licensed to carry under state law;
b. When the firearm is unloaded and stored in a locked container or a locked firearms rack that is in a vehicle;
c. If the firearm is carried for use in a program approved by the school;
d. If the firearm is carried as allowed by a written contract between the school and the licensed individual; or
e. If the firearm is carried by a law enforcement officer acting in his or her official capacity.

Sec. 5. PROHIBITION OF FIREARMS AND WEAPONS UNDER STATE LAW

A. It is a criminal offense for an individual to exhibit or threaten to use a firearm on school property or in a school vehicle in a manner intended to cause alarm or personal injury to another person or to damage school property. *Education Code 37.125(a).*

B. It is a criminal offense for an individual to intentionally, knowingly, or recklessly possesses or go with a firearm, location-restricted knife, club, or prohibited weapon on the premises of the school, on any grounds or building owned by or under the control of a school on which an activity sponsored

by the school is being conducted, or on a passenger transportation vehicle of the school unless pursuant to written regulations or written authorization of the school. *Penal Code 46.03(a)(1).*

C. It is a criminal offense for an individual to intentionally, knowingly, or recklessly possesses or go with a firearm, location-restricted knife, club, or prohibited weapon on the premises where a high school or interscholastic event is taking place, unless the person is a participant in a high school or interscholastic event and a firearm, location-restricted knife, club, or prohibited weapon is used in the event. *Penal Code 46.03(a)(8).*

Sec. 6. EXCEPTIONS TO PROHIBITION OF FIREARMS AND WEAPONS UNDER STATE LAW

A. Federal and State Officials Permitted Firearms Under State Law. Per state law, it is not a violation of this policy or state law for the following individuals to carry a firearm on the premises of Richard Milburn Academy:

a. A member of the armed forces or national guard, a guard employed by a penal institution, or an officer of the court, while in the conduct of official duties;
b. On or off duty peace officers or special criminal investigators;
c. Authorized and on-duty parole officers;
d. Authorized and on-duty community supervision and corrections department officers;
e. Active judicial officers licensed to carry handguns;
f. Honorably retired peace officers, qualified retired law enforcement officers, federal criminal investigators, or former reserve law enforcement officers, with proper identification;
g. U.S. attorneys and assistant U.S. attorneys, district attorneys and assistant district attorneys, criminal district attorneys, county attorneys, the attorney general and assistant attorneys general, or municipal attorneys licensed to carry handguns;
h. Bailiffs designated to escort active judicial officers and licensed to carry handguns;
i. Juvenile probation officers authorized to carry firearms;
j. Volunteer emergency services personnel if the person is carrying a handgun under the authority of his or her license and is engaged in providing emergency services;
k. Appropriately licensed district or county clerks; and
l. Appropriately licensed retired judges and justices.

Penal Code 46.03(b), 46.15(a).

B. Individuals Permitted to Carry Firearms Per State Law**.** No violation of this policy or state law occurs when:

a. A Texas handgun license holder stores a handgun or other firearm in a locked vehicle in a parking lot, parking garage, or other parking area on School Premises if the handgun or other firearm is not in plain sight. *Education Code 37.0815*;
b. The use, possession, or display of an otherwise prohibited weapon takes place as part of a school-approved activity or sports competition supervised by proper authorities;
c. A firearm is possessed by a licensed campus school marshal who is appointed by the Board and approved by the Texas Commission on Law Enforcement, provided that the campus

school marshal's possession and use of the firearm is in accordance with written board regulations. *Education Code 37.0811; 37 TAC 227.1–227.9;* or

d. A person possess a firearm on school premises in accordance with written regulations or written authorization of the Board. *Penal Code 46.03(a)(1)(A).*

C. Conduct by Persons Permitted to Carry Firearms. Any individual permitted to carry a firearm on school premises under this policy or state law must not possess, transport, or store a handgun, a firearm, or ammunition in violation of Section 37.125, Education Code (i.e., to exhibit or threaten to use a firearm on school property or in a school vehicle in a manner intended to cause alarm or personal injury to another person or to damage school property) or otherwise in violation of Section 46.03, Penal Code, or other law. *Education Code 37.081.*

Sec. 7. RESOURCES ON SAFE FIREARM STORAGE

Richard Milburn Academy shall distribute the information and other resources provided by the Texas School Safety Center and the Department of Public Safety regarding the safe storage of firearms to the parent or guardian of each student enrolled in Richard Milburn Academy. *Education Code 37.222.*

Sec. 8. SIGNS PROVIDING NOTICE OF PROHIBITED FIREARMS

The Superintendent must provide notice that firearms are prohibited on school premises by posting a sign at each entrance to the premises as indicated below. The Superintendent may also produce a card or other document to disseminate the requirements of this policy as indicated below:

Prohibiting Concealed Carry[3]	*Prohibiting Open Carry*[4]
Card or other document that includes thefollowing language: "**Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.**" This notice may be given orally or in writing.	Card or other document that includes thefollowing language: "**Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.**" This notice may be given orally or in writing.
Sign posted on school premises that includes the following language: "**Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.**" The sign must include the quoted language in English and Spanish, appear in contrasting colorswith block letters at least one inch in height, and be displayed in a conspicuous manner clearly visible to the public.	Sign posted on premises that includes thefollowing language: "**Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.**" The sign must include the quoted language in English and Spanish, appear in contrasting colorswith block letters at least one inch in height, and be displayed in a conspicuous manner clearly visible to the public at each entrance to the property.

[3] *Penal Code § 30.06*
[4] *Penal Code § 30.07*

PG-1.403 EMERGENCY PLANS

Sec. 1. MULTIHAZARD EMERGENCY OPERATIONS PLAN

a) General Plan Requirements

Richard Milburn Academy shall adopt and implement a multi-hazard emergency operations plan (MEOP) for use in Richard Milburn Academy's facilities. The MEOP must address prevention, mitigation, preparedness, response, and recovery as defined by the Texas School Safety Center (TxSSC) in conjunction with the governor's office of homeland security and the Commissioner of Higher Education. The MEOP must provide for:

1. Training in responding to an emergency for Richard Milburn Academy employees, including substitute teachers;
2. Measures to ensure Richard Milburn Academy employees, including substitute teachers, have classroom access to a telephone, including a cellular telephone, or another electronic communication device allowing for immediate contact with emergency services or emergency services agencies, law enforcement agencies, health departments, and fire departments;
3. Measure to ensure Richard Milburn Academy's communications technology and infrastructure are adequate to allow for communication during an emergency;
4. Mandatory or required drills and exercises, including those required under Education Code 37.114, to prepare staff and students for responding to an emergency;
5. Measures to ensure coordination with the Department of State Health Services (DSSH) and local emergency management agencies, law enforcement, health departments, and fire department in the event of an emergency; and
6. The implementation of a safety and security audit as required by Education Code 37.108(b) and;
7. Any other requirements established by the TxSSC in consultation with Texas Education Agency (TEA) and relevant law enforcement agencies.

Education Code 37.108(a).

The MEOP shall also include:

1. A chain of command that designates the individual responsible for making final decisions during a disaster or emergency situation and identifies other individuals responsible for making those decisions if the designated person is unavailable;
2. Provisions that address physical and psychological safety for responding to a natural disaster, active shooter, and any other dangerous scenario identified by the Texas Education Agency (TEA) or TSSC;
3. Provisions for ensuring the safety of students in portable buildings;
4. Provisions for ensuring that students and Richard Milburn Academy personnel with disabilities are provided equal access to safety during a disaster or emergency situation;
5. Provisions for providing immediate notification to parents, guardians, and other persons standing in parental relation in circumstances involving a significant threat to the health or safety of students, including identification of the individual with responsibility for

overseeing the notification;

6. Provisions for supporting the psychological safety of students, Richard Milburn Academy personnel, and the community during the response and recovery phase following a disaster or emergency situation that:
   a. Are aligned with best practice-based programs and research-based practices recommended under Health & Safety Code 161.325;
   b. Include strategies for ensuring any required professional development training for suicide prevention and grief-informed and trauma-informed care is provided to appropriate school personnel;
   c. Include training on integrating psychological safety and suicide prevention strategies into the emergency operations plan, such as psychological first aid for schools training, from an approved list of recommended training established by the Commissioner and TSSC for (i) members of Richard Milburn Academy's school safety and security committee under Education Code 37.109; (ii) Richard Milburn Academy counselors and mental health professionals; and (iii) educators and other personnel as determined by Richard Milburn Academy;
   d. Include strategies and procedures for integrating and supporting physical and psychological safety that align with the provisions described by in item (2) above; and
   e. Implement trauma-informed policies;
7. A policy for providing a substitute teacher access to school campus buildings and materials necessary for the substitute teacher to carry out the duties of a Richard Milburn Academy employee during an emergency or a mandatory emergency drill;
8. The name of each individual on the school safety and security committee established under Education Code 37.109 and the date of each committee meeting during the preceding year; and
9. Certification that Richard Milburn Academy is in compliance with Education Code § 37.117 (Emergency Map and Walk-Through).

Education Code 37.108(d), (f)

Richard Milburn Academy shall include in its MEOP a policy for responding to an active shooter emergency. Richard Milburn Academy may use any available community resources in developing the policy. *Education Code 37.108(g).*

Richard Milburn Academy shall include in it's a MEOP a policy for responding to a train derailment, if a school facility is located within 1,000 yards of a railroad track as measured from any point on Richard Milburn Academy's real property boundary line. Richard Milburn Academy may use any available community resources in developing the policy. *Education Code 37.108(d).*

Richard Milburn Academy shall follow the guidelines established by the TEA for ensuring the safety of students and personnel with disabilities or impairments during a disaster or emergency situation in adopting and implementing its MEOP. *Education Code 37.1086(b).*

Richard Milburn Academy may use any available community resources in developing the MEOP.

b) MEOP Review

Richard Milburn Academy shall submit its MEOP to the TxSSC not later than the 30th day after the date the TxSSC requests the submission and in accordance with the Education 37.2071(a). *Education Code 37.2071(b).*

i. Noncompliance Notification

The TxSSC shall review the Richard Milburn Academy MEOP and verify that the plan meets the requirements of Education Code 37.108 or provide Richard Milburn Academy with written notice describing the plan's deficiencies , including specific recommendations to correct the deficiencies, and stating that Richard Milburn Academy must correct the deficiencies and resubmit the revised plan to the TSCC. *Education Code 37.2071(c).*

The TxSSC may approve Richard Milburn Academy's MEOP that has deficiencies if it submits a revised plan that the TxSSC determines will correct the deficiencies. *Education Code 37.2071(e).*

ii. Failure to Submit Plan

If Richard Milburn Academy fails to submit its MEOP to the TxSSC for review following a notification from TxSSC that the school has failed to submit its MEOP, the TxSSC shall provide Richard Milburn Academy with written notice stating that Richard Milburn Academy must hold a hearing under Education Code § 37.1081. *Education Code 37.2071(d).* The notice must also state that the Commissioner of Education is authorized to appoint a conservator under Education Code § 37.1082.

iii. Failure to Correct Deficiencies after Notice

If Richard Milburn Academy has not corrected plan deficiencies one month after the date of initial notification from the TxSSC, the TxSSC shall provide written notice to Richard Milburn Academy and the TEA that Richard Milburn Academy has not complied with the requirements of Education Code § 37.2071 and must comply immediately. *Education Code 37.2071(f).*

If Richard Milburn Academy has not corrected plan deficiencies three months after the date of initial notification, the TxSSC shall provide written notice to Richard Milburn Academy stating that Richard Milburn Academy must hold a hearing under Education Code § 37.1081. *Education Code 37.2071(g).*

c) Public Hearing due to Noncompliance

If Richard Milburn Academy receives notice of noncompliance for reasons identified under Education Code 37.207(e) or 37.2071(g), the Board shall hold a public hearing to notify the public of:

1. Richard Milburn Academy's failure to submit or correct deficiencies in a MEOP or report

the results of a safety and security audit to the TSSC as required by law;
2. The dates during which Richard Milburn Academy has not been in compliance; and
3. The names of each Board member and the Superintendent serving in that capacity during the dates Richard Milburn Academy was not in compliance. Richard Milburn Academy shall provide this information in writing to each person at the hearing.

The Board shall give members of the public a reasonable opportunity to appear before the Board and to speak on the issue of Richard Milburn Academy's failure to submit or correct deficiencies in a MEOP. Richard Milburn Academy shall submit written confirmation to the TSSC that the public hearing was held.

Education Code 37.2071.

d) Disclosure of MEOP Documents

A document relating to the Richard Milburn Academy MEOP is subject to disclosure if the disclosure allows a person to:

1. Verify that Richard Milburn Academy has established a MEOP and determine the agencies involved in the development of the plan and the agencies coordinating with Richard Milburn Academy to respond to an emergency, including the DSHS, local emergency services agencies, law enforcement agencies, health departments, and fire departments;
2. Verify that the MEOP was reviewed within the last 12 months and determine the specific review dates;
3. Verify that the MEOP addresses the phases of emergency management plans under Education Code 37.108(a);
4. Verify that Richard Milburn Academy employees have been trained to respond to an emergency and determine the types of training, the number of employees trained, and the person conducting the training;
5. Verify that each campus has conducted mandatory emergency drills and exercises in accordance with the plan and determine the frequency of the drills;
6. To the extent required by law, verify that the MEOP has established a plan for responding to a train derailment;
7. Verify that Richard Milburn Academy has completed a safety and security audit and determine the date the audit was conducted, the person conducting the audit, and the date the audit results were presented to the Board;
8. Verify that Richard Milburn Academy has addressed any recommendations by the Board for improvement of the MEOP and determine Richard Milburn Academy's progress within the last 12 months; and
9. To the extent required by law, verify that Richard Milburn Academy has established a visitor policy and identify the provisions governing access to a school building or other school property.

Education Code 37.108(c-2).

e) Superintendent Duties

The Superintendent shall ensure updating of the MEOP and ongoing staff training.

Sec. 2. SAFETY AND SECURITY AUDIT

a) Audit Requirements

At least once every three years, Richard Milburn Academy shall conduct a safety and security audit of Richard Milburn Academy facilities. Richard Milburn Academy, or a person included in the TxSSC registry engaged by the school to conduct a safety and security audit, shall follow safety audit and security audit procedures developed by the TxSSC in coordination with the Commissioner of Education..

The safety and security audit must certify that Richard Milburn Academy used funds provided through the school safety allotment only for purposes provided by Education Code 42.168.

The results of the safety and security audit shall be reported to the Board and, in the manner required by the TSSC, to the TSSC. The report provided to the TSSC must be signed by the Board and Superintendent.

Education Code 37.108(b), (b-1), (c).

b) Disclosure and Confidentiality

Except as provided under Education Code 37.108(c-2), any document or information collected, developed, or produced during a safety and security audit is not subject to disclosure under the Texas Public Information Act. *Education Code 37.108(c-1)*.

Sec. 3. SAFETY AND SECURITY COMMITTEE

Richard Milburn Academy shall establish a school safety and security committee in accordance with guidelines established by the TSSC.

a) Committee Membership

The school safety and security committee, to the greatest extent practicable, must include:

1. One or more representatives of an office of emergency management of a county or city in which Richard Milburn Academy is located;
2. One or more representatives of the local police department or sheriff's office;
3. One or more representatives of Richard Milburn Academy's police department, if applicable;
4. The Board president;
5. A member of the Board other than the Board president;
6. The Superintendent;
7. One or more designees of the Superintendent, one of whom must be a Richard Milburn

Academy classroom teacher; and
8. Two parents or guardians of students enrolled in Richard Milburn Academy.

Education Code 37.109(a-1).

b) Committee Responsibilities

The school safety and security committee shall:

1. Participate on behalf of Richard Milburn Academy in developing and implementing emergency plans consistent with the MEOP to ensure that the plans reflect specific campus, facility, or support services needs;
2. Periodically provide recommendations to the Board and school administrators regarding updating the MEOP in accordance with best practices identified by TEA, the TSSC, or a person included in the registry of persons established by the TSSC as providing school safety or security consulting services;
3. Provide Richard Milburn Academy with any campus, facility, or support services information required in connection with a safety and security audit or other report required to be submitted to the TxSSC;
4. Review each report required to be submitted by Richard Milburn Academy to the TSSC to ensure that the report contains accurate and complete information regarding each campus, facility, or support service in accordance with criteria established by the TxSSC; and
5. Consult with local law enforcement agencies on methods to increase law enforcement presence near school campuses.

Education Code 37.109(b).

The school safety and security committee shall review the report on the results of a vulnerability assessment conducted once every four years under Section 37.1083, Education Code, and participate in the implementation of recommendations and/or required corrective actions, as appropriate. *Education Code 37.1083(f).*

The school safety and security committee shall review the report on the results of an annual intruder detection audit under Section 37.1084, Education Code, and participate in the implementation of recommendations and/or required corrective actions, as appropriate. *Education Code 37.1084(b)(3).*

c) Committee Meetings

The school safety and security committee shall meet at least once during each academic semester and at least once during the summer. The committee is subject to the Texas Open Meetings Act and may meet in executive session as provided by Chapter 551, Government Code. Notice of a committee meeting must be posted in the same manner as notice of a Board meeting. *Education Code 37.109(c)-(d)*.

Sec. 4 EMERGENCY RESPONSE MAP AND WALK-THROUGH

Richard Milburn Academy shall provide to the Department of Public Safety and all appropriate local law enforcement agencies and emergency first responders:

1. An accurate map of each district campus and school building that is developed and documented in accordance with the standards described by Education Code § 37.351 related to developing site and floor plans, access control, and exterior door numbering; and
2. An opportunity to conduct a walk-through of each district campus and school building using the map described by item (1), above.

Education Code 37.117.

Sec. 5 NOTICE OF ACTIVE THREAT EXERCISE

Before Richard Milburn Academy conducts an active threat exercise, including an active shooter simulation, Richard Milburn Academy shall ensure that adequate notice of the exercise is provided to students expected to participate in the exercise, the parents of those students, and staff likely to be part of the exercise, including information regarding:

1. The date on which the exercise will occur;
2. The content, form, and tone of the exercise; and
3. Whether the exercise will include a live simulation that mimics or appears to be an actual shooting incident.

Education Code 37.1141(a)(1). Richard Milburn Academy shall also ensure that:

1. The exercise is announced to students and faculty before the start of the exercise, including, if applicable, an announcement that the exercise will include a live simulation that mimics or appears to be an actual threat, such as a shooting incident.
2. First responder organizations that would likely respond in the event of a false report or alarm are notified regarding the exercise; and
3. A safe zone is created around the area in which the exercise will be conducted to keep out actual firearms, ammunition, and other weapons, other than firearms, ammunition, or other weapons carried by a peace officer, school resource officer, or school marshal or any other person authorized by the district to carry those items on school grounds.

Education Code 37.1141(a)(2)-(4). Richard Milburn Academy shall ensure that the content of any active threat exercise:

1. Is age appropriate and developmentally appropriate;
2. Has been developed by a team of school administrators, teachers, school-based mental health professionals, and law enforcement officers, with input from parents and students; and
3. Is designed to support the well-being of students who participate in the exercise before, during, and after the exercise is conducted.

Education Code 37.1141(a)(5). Richard Milburn Academy shall track data regarding the efficacy and impact of the exercise, including any feedback regarding the exercise from students, staff, or family members of students or staff and submit such data to the Texas School Safety Center. *Education Code 37.1141(a)(6), (c).*

Sec. 6. NOTIFICATION REGARDING BOMB THREAT OR TERRORISTIC THREAT

Upon receiving a bomb threat or terroristic threat relating to a campus or other Richard Milburn Academy facility at which students are present, Richard Milburn Academy shall provide notification of the threat as soon as possible to the parent or guardian of or other person standing in parental relation to each student who is assigned to the campus or who regularly uses the facility, as applicable. *Education Code 37.113*.

Sec. 7. NOTIFICATION REGARDING VIOLENT ACTIVITY

Richard Milburn Academy shall adopt a policy for providing notice regarding violent activity that has occurred or is being investigated at a campus or other school facility or at a school-sponsored activity to parents, guardians, and other persons standing in parental relation to students who are assigned to the campus, regularly use the facility, or are attending the activity, as applicable. The policy will meet the standards adopted by the TEA under Education Code § 37.1131(a). *Education Code 37.1131(b).*

Sec. 8. TRAUMATIC INJURY RESPONSE PROTOCOL

Richard Milburn Academy shall develop and annually make available a protocol for employees and volunteers to follow in the event of a traumatic injuries.

a) Protocol Requirements

The protocol must:

1. Provide for Richard Milburn Academy to maintain and make available to school employees and volunteers bleeding control stations for use in the event of a traumatic injury involving blood loss;
2. Ensure that bleeding control stations are stored in easily accessible areas of the campus that are selected by the school safety and security committee or the Board;
3. Require that a TEA-approved training on the use of a bleeding control station in the event of an injury to another person be provided to:
   a. To the extent applicable, each Richard Milburn Academy peace officer commissioned or school security personnel employed under Education Code 37.081 who provides security services at the campus;
   b. Each school resource officer who provides law enforcement at the campus; and
   c. All other Richard Milburn Academy personnel who may be reasonably expected to use a bleeding control station; and
4. Require Richard Milburn Academy to annually offer instruction on the use of a bleeding

control station from a school resource officer or other appropriate school personnel who has received appropriate training to students enrolled in grade seven or higher.

b) Bleeding Control Stations

The school safety and security committee or the Board may select, as easily accessible areas of the campus at which bleeding control stations may be stored, areas of the campus where automated external defibrillators are stored.

A bleeding control station contain all of the following required supplies in quantities determined appropriate by the Superintendent:

1. Tourniquets approved for use in battlefield trauma care by the armed forces of the United States;
2. Chest seals;
3. Compression bandages;
4. Bleeding control bandages;
5. Space emergency blankets;
6. Latex-free gloves;
7. Markers;
8. Scissors; and
9. Instructional documents developed by the American College of Surgeons or the United States Department of Homeland Security detailing methods to prevent blood loss following a traumatic event.

Bleeding control stations may also include medical material or equipment that:

1. May be readily stored in a bleeding control station;
2. May be used to adequately treat an injury involving traumatic blood loss; and
3. Is approved by local law enforcement or emergency medical services personnel.

Education Code 38.027.

Sec. 9. AUTOMATED EXTERNAL DEFIBRILLATORS

a) Campus Availability

Richard Milburn Academy shall make available at each campus at least one automated external defibrillator (AED). A campus defibrillator must be readily available during any Universal Interscholastic League (UIL) athletic competition held on the campus. In determining the location at which to store a campus defibrillator, the Principal shall consider the primary location on campus where students engage in athletic activities.

b) Athletic Practices

To the extent practicable, Richard Milburn Academy, in cooperation with the UIL, shall make

reasonable efforts to ensure that an AED is available at each UIL athletic practice held at a Richard Milburn Academy campus. If Richard Milburn Academy is not able to make an AED available in such manner, Richard Milburn Academy shall determine the extent to which an AED must be available at each UIL athletic practice held at a campus; the determination must be based, in appropriate to any other appropriate considerations, on relevant medical information.

c) Athletic Competitions

Richard Milburn Academy, in cooperation with the UIL, shall determine the extent to which an AED must be available at each UIL athletic competition held at a location other than a Richard Milburn Academy campus. The determination must be based, in addition to any other appropriate considerations, on relevant medical information and whether emergency services personnel are present at the athletic competition under a contract with Richard Milburn Academy.

d) Trained Staff

Richard Milburn Academy shall ensure the presence at each location at which an AED is required at least one school employee trained in the proper use of the defibrillator at any time a substantial number of Richard Milburn Academy students are present at the location.

e) AED Maintenance

Richard Milburn Academy shall ensure that AEDs are used and maintained in accordance with standards established under Chapter 779, Health & Safety Code.

Education Code 38.017.

Sec. 10. RESPONSE TO CARDIAC ARREST

The Superintendent or designee shall develop safety procedures for school employees or students to follow in responding to a medical emergency involving cardiac arrest, including the appropriate response time in administering cardiopulmonary resuscitation, using an AED, or calling a local emergency medical services provider. *Education Code 38.018*.

PG-1.404 CRISIS AND TRAUMA RESPONSE

Sec. 1. THREAT ASSESSMENTS

a) Definitions

"Harmful, threatening, or violent behavior" includes behaviors, such as verbal threats, threats of self-harm, bullying, cyberbullying, fighting, the use or possession of a weapon, sexual assault, sexual harassment, dating violence, stalking, or assault, by a student that could result in:

1. Specific interventions, including mental health or behavioral supports;
2. In-school suspension;
3. Out-of-school suspension; or

4. The student's expulsion or removal to a disciplinary alternative education program or a juvenile justice alternative education program.

Education Code 37.115(a)(1).

"Team" means a threat assessment and safe and supportive school team established by the Board.
Education Code 37.115(a)(2).

b) Threat Assessment and Safe and Supportive School Team

The Board shall establish a threat assessment and safe and supportive school team at each campus, and shall adopt policies and procedures for the teams. The team is responsible for developing and implementing the safe and supportive school program under Education Code 37.115(b). Policies and procedures concerning the team must:

1. Be consistent with the model policies and procedures developed by the Texas School Safety Center;
2. Require each team to complete training provided by the Texas School Safety Center or a regional education service center regarding evidence-based threat assessment programs; and
3. Require each team established under this section to report the information required under Education Code 37.115(k) retarding the team's activities to the TEA.
4. Require each campus to establish a clear procedure for a student to report concerning behavior exhibited by another student for assessment by the team or other appropriate school employee; and
5. Provide for an employee who reports a potential threat to a team to elect for the employee's identity to be confidential and not subject to disclosure under Chapter 552, Government Code, except as necessary for the team, the charter school, or law enforcement to investigate the potential threat and for the charter school to maintain a record of the identity of an employee who elects for the employee's identity to remain confidential.

c) Team Membership

The Superintendent shall ensure that the members appointed to each team have expertise in counseling, behavior management, mental health and substance use, classroom instruction, special education, school administration, school safety and security, emergency management, and law enforcement. A team may serve more than one campus, provided that each Richard Milburn Academy campus is assigned a team.

Education Code 37.115(d).

d) Team Responsibilities

Each team shall:

1. Conduct a threat assessment that includes:
    a. Assessing and reporting individuals who make threats of violence or exhibit harmful, threatening, or violent behavior in accordance with the policies and procedures adopted under this policy; and
    b. Gathering and analyzing data to determine the level of risk and appropriate intervention, including:
        i. Referring a student for mental health assessment; and
        ii. Implementing an escalation procedure, if appropriate based on the team's assessment, in accordance with Richard Milburn Academy's policy;
2. Provide guidance to students and school employees on recognizing harmful, threatening, or violent behavior that may pose a threat to the community, school, or individual; and
3. Support Richard Milburn Academy in implementing its multi-hazard emergency operations plan.

Education Code 37.115(f).

e) Parent Notification

Before a team may conduct a threat assessment of a student, the team must notify the parent of or person standing in parental relation to the student regarding the assessment. In conducting the assessment, the team shall provide an opportunity for the parent or person to participate in the assessment, either in person or remotely, and submit to the team information regarding the student. *Education Code 37.115(f-1).*

After completing a threat assessment of a student, the team shall provide to the parent of or person standing in parental relation to the student the team's findings and conclusions regarding the student. *Education Code 37.115(f-2).*

f) Providing Mental Health Care Services

A team may not provide a mental health care service to a student who is under 18 years of age unless the team obtains written consent from the parent of or person standing in parental relation to the student before providing the mental health care service. The consent must be submitted on a form developed by Richard Milburn Academy that complies with all applicable state and federal law. The student's parent or person standing in parental relation to the student may give consent for a student to receive ongoing services or may limit consent to one or more services provided on a single occasion.

Education Code 37.115(g).

g) Determination of Risk

i. Risk of Violence to Self or Others

On determination that a student or other individual poses a serious risk of violence to self or others, a team shall immediately report the determination to the Superintendent. If the individual is a student, the Superintendent shall immediately attempt to inform the parent or person standing in parental relation to the student. This notice requirement does not prevent an employee from acting immediately to prevent an imminent threat or respond to an emergency.

Education Code 37.115(h).

ii. Risk of Suicide

A team identifying a student at risk of suicide shall act in accordance with Richard Milburn Academy's suicide prevention program. If the student at risk of suicide also makes a threat of violence to others, the team shall conduct a threat assessment in addition to actions taken in accordance with Richard Milburn Academy's suicide prevention program.

iii. Risk of Possessing Tobacco, Drugs or Alcohol

A team identifying a student using or possessing tobacco, drugs, or alcohol shall act in accordance with Richard Milburn Academy's policies and procedures related to substance use prevention and intervention.

h) Oversight Responsibility

The Superintendent may establish a committee, or assign to an existing committee, the duty to oversee the operations of teams established for Richard Milburn Academy. A committee with oversight responsibility must include members with expertise in human resources, education, special education, counseling, behavior management, school administration, mental health and substance abuse, school safety and security, emergency management, and law enforcement.

i) Reports to TEA

A team must report to TEA the following information regarding the team's activities and other information for each campus the team serves:

1. The occupation of each person appointed to the team;
2. The number of threats and a description of the type of the threats reported to the team;
3. The outcome of each assessment made by the team, including:
   a. Any disciplinary action taken, including a change in school placement;
   b. Any action taken by law enforcement; or
   c. A referral to or change in counseling, mental health, special education, or other

services;

4. The total number, disaggregated by student gender, race, and status as receiving special education services, being at risk of dropping out of school, being in foster care, experiencing homelessness, being a dependent of military personnel, being pregnant or a parent, having limited English proficiency, or being a migratory child, of, in connection with an assessment or reported threat by the team:
   a. Citations issued for Class C misdemeanor offenses;
   b. Arrests;
   c. Incidents of uses of restraint;
   d. Changes in school placement, including placement in a juvenile justice alternative education program or disciplinary alternative education program, if applicable;
   e. Referrals to or changes in counseling, mental health, special education, or other services;
   f. Placements in in-school suspension or out-of-school suspension and incidents of expulsion;
   g. Unexcused absences of 15 or more days during the school year; and
   h. Referrals to juvenile court for truancy; and

5. The number and percentage of school personnel trained in:
   a. A best-practices program or research-based practice under Section 161.325, Health and Safety Code, including the number and percentage of school personnel trained in:
      i. Suicide prevention; or
      ii. Grief and trauma-informed practices;
   b. Mental health or psychological first aid for schools;
   c. Training relating to the safe and supportive school program established under Education Code 37.115(b); or
   d. Any other program relating to safety identified by the Commissioner.

Education Code 37.115(k).

j) Record Maintenance

Materials and information provided to or produced by a team during a threat assessment of a student under this policy must be maintained in the student's school record until the student's 24th birthday. *Education Code 37.115(j-1)*.

Sec. 2. RESOURCES ON SAFE FIREARM STORAGE

Richard Milburn Academy shall distribute the information and other resources provided by the Texas School Safety Center and the Department of Public Safety regarding the safe storage of firearms to the parent or guardian of each student enrolled in Richard Milburn Academy. *Education Code 37.222.*

Sec. 3. TRAUMA-INFORMED CARE PLAN

a) Plan Requirements

Richard Milburn Academy shall adopt and implement a policy requiring the integration of trauma- informed practices in each school environment. The policy must address:

1. Using resources developed by TEA, methods for:
   a. Increasing staff and parent awareness of trauma-informed care; and
   b. Implementation of trauma-informed care practices and care by school staff; and
2. Available counseling options for students affected by trauma or grief.

Education Code 38.036(a), (b).

b) Training Requirements

Methods for increasing awareness and implementation of trauma-informed care must be discussed in training provided:

1. That is provided:
   a. Through a program selected from the list of recommended best practice-based programs and research-based practices established under Education Code 38.351;
   b. In accordance with the policy adopted under Education Code 21.4515, to the extent applicable; and
   c. As part of any new employee orientation for all new educators at the school.
2. That addresses how grief and trauma affect student learning and behavior and how evidence-based, grief-informed, and trauma-informed strategies support the academic success of students affected by grief and trauma.

Education Code 38.036(c).

The training may include two or more listed topics together. *Education Code 38.036(c-1)*.

Richard Milburn Academy shall keep records of each training conducted, to include the name of each staff member who participated in the training. *Education Code 38.036(d)*.

c) Training Partnerships

If Richard Milburn Academy determines that it does not have sufficient resources to provide the training required under Education Code 38.036(c), Richard Milburn Academy may partner with a community mental health organization to provide training that meets the requirements of that law at no cost to the school. *Education Code 38.036(f)*.

PG-1.405 FACILITIES SAFETY

Sec. 1. ACCESS CONTROL AUDITS

The Superintendent, or designee, shall conduct at least weekly inspections during school hours of all exterior doors of all instructional facilities to certify that all doors are, by default, set to a closed, latched, and locked status and

cannot be opened from the outside without a key. *19 TAC 61.1031(d)(1)(A).*

The Superintendent, or designee, shall report the findings of weekly inspections to:

1. The school safety and security committee formed pursuant to Section 37.109, Education Code; and
2. The principal or leader of the instructional facility to ensure awareness of any deficiencies identified and who must take action to reduce the likelihood of similar deficiencies in the future.

19 TAC 61.1031(d)(1)(B), (C).

The Superintendent, or designee, shall ensure the results are kept for review as part of the safety and security audit as required by Section 37.108, Education Code. *19 TAC 61.1031(d)(1)(B).*

Nothing in Richard Milburn Academy's access control procedures will be interpreted as discouraging parents, once properly verified as authorized campus visitors, from visiting campuses they are authorized to visit. *19 TAC 61.1031(d)(1)(D).*

Sec. 2. FACILITIES STANDARDS COMPLIANCE

Richard Milburn Academy shall ensure that each Richard Milburn Academy facility complies with each school facilities standard, including performance standards and operational requirements, related to safety and security adopted under Section 7.061, Education Code, or provided by other law or administrative rule. *Education Code 37.351(a).*

a) *Good Cause Exception*

If Richard Milburn Academy is unable to bring a school facility into compliance with a school facilities standard related to safety and security, Richard Milburn Academy may claim a good cause exception from the requirement to comply with that standard, including for a reason related to:

1. The age, physical design, or location of the noncompliant facility;
2. The projected remaining use or functional life of the noncompliant facility;
3. Availability of funding; or
4. Supply chain obstacles.

Education Code 37.353(a).

If Richard Milburn Academy claims a good cause exception, Richard Milburn Academy shall develop an alternative performance standard with which it is able to comply. *Education Code 37.353(b).*

b) *Documentation*

Richard Milburn Academy shall develop and maintain documentation of implementation of and compliance with school safety and security facilities standards for each Richard Milburn Academy facility, including a good cause exception claimed under Section 37.353, Education Code, and shall, if requested by the Texas Education Agency, provide that documentation to the Agency in the manner prescribed by the Agency. *Education Code 37.351(b).*

c) *Confidentiality*

Any document or information collected, identified, developed, or produced relating to a safety or security requirement for facilities is confidential under Sections 418.177 and 418.181, Government Code, and not subject to disclosure under Chapter 552, Government Code. *Education Code 37.355.*

PG-1.406 SECURITY OFFICERS

Sec. 1 Board Authority

The Board of Richard Milburn Academy may:

1. Employ or contract with security personnel;
2. Enter into a memorandum of understanding with a local law enforcement agency or a county or municipality that is the employing political subdivision of commissioned peace officers for the provision of school resource officers;
3. For the purposes of providing security personnel, contract with a security services contractor licensed under Chapter 1702, Occupations Code, for the provision of a commissioned security officer, as defined by Section 1702.002, Occupations Code, who has completed the Level II or III training course required by the Department of Public Safety; and
4. Commission peace officers to carry out Subchapter C, Chapter 37 of the Education Code.

Education Code 12.104(a-1), 37.081(a).

Sec 2. Armed Security Required

The Board of Richard Milburn Academy shall determine the appropriate number of armed security officers for each charter school campus. The Board must ensure that at least one armed security officer is present during regular school hours at each charter school campus. *Education Code 12.104(b)(3)(V), 37.0814(a).*

A security officer described above must be:

1. A school district peace officer;
2. A school resource officer;
3. A commissioned peace officer employed as security personnel under Education Code 37.081;
4. A reserve deputy sheriff appointed under Local Government Code 85.004 who is a peace officer as described by Article 2A.001, Code of Criminal Procedure;
5. A reserve police officer appointed under Education Code 37.0816 who is a peace officer as described by Article 2A.001, Code of Criminal Procedure; or
6. An honorably retired peace officer, as defined by Government Code 614.121who has: (a) kept their commission as a peace officer in active status; and (b) fulfilled all applicable requirements under Occupations Code 1701.351, 1701.3525, and 1701.357.

Education Code 37.0814(b).

Sec. 3. Good Cause Exception

a) *Good Cause Except for Inability to Comply*

If the Board of Richard Milburn Academy is unable to comply with Section 2, above, the Board may claim a good cause exception from the requirement to comply if the noncompliance is due to the availability of:

1. Funding; or
2. Personnel who qualify to serve as a security officer described by Section 2.

Education Code 37.0814(c).

b) *Alternative Standard*

If the Board of Richard Milburn Academy claims a good cause exception, the Board must develop an alternative standard with which the school is able to comply, which may include providing a person to act as a security officer who is:

1. A school marshal; or
2. A school employee or a person with whom the school contracts who:
   i. Either
      a) Has completed school safety training provided by a qualified handgun instructor certified in school safety under Section 411.1901, Government Code; or
      b) Not later than the 90th day after the date on which the employee or person begins duties as a security officer, completes training deemed appropriate by the school, in consultation with the school's police department, or, if the school does not have a police department, a local law enforcement agency, in:
         (1) Active shooter response, which must be provided by an instructor certified by the Advanced Law Enforcement Rapid Response Training Center at Texas State University--San Marcos;
         (2) School safety and emergency management;
         (3) Crisis intervention;
         (4) Incident command;
         (5) First aid administration;
         (6) Mental health; and
         (7) Qualifications relating to the carrying or use of a firearm; and
   ii. Carries a handgun on school premises in accordance with written regulations or written authorization of the Board under Section 46.03(a)(1)(A), Penal Code.

Education Code 37.0814(d).

c) *Expiration and Renewal*

A good cause exception claimed by the Board of Richard Milburn Academy expires on the first anniversary of the date the exception is claimed. On the expiration of the exception, the Board must reevaluate whether the Board is able to comply with Section 2 of this policy and, if not, renew:

1. The claim for an exception; and

2. The alternative standard developed.

Education Code 37.0814(d-1).

d) *Documentation*

The Board of Richard Milburn Academy must develop and maintain documentation of the school's implementation of and compliance with the armed security officer requirement, including documentation related to a good cause exception, and shall, if requested by the Texas Education Agency (TEA), provide that documentation to the TEA in the manner prescribed by the Agency.

Education Code 37.0814(e).

Sec. 4. Jurisdiction

The jurisdiction of a peace officer, a school resource officer, or security personnel shall be determined by the Board of Directors and may include all territory in the geographic boundaries of Richard Milburn Academy and all property outside the boundaries of Richard Milburn Academy that is owned, leased, or rented by or otherwise under the control of the School and the Board that employ or contract with, as applicable, the peace officer or security personnel or that enter into a memorandum of understanding for the provision of a school resource officer.

Education Code 37.081(a-1)

Sec. 5. Duties

The Board shall determine the law enforcement duties of peace officers, school resource officers, and security personnel. The duties must be included in:

1. The district improvement plan under Education Code 11.252, if any;
2. The student code of conduct adopted under Education Code 37.001;
3. Any memorandum of understanding providing for a school resource officer; and
4. Any other campus or district document describing the role of peace officers, school resource officers, or security personnel in the district.

Education Code 37.081(d).

The Board shall coordinate with district campus behavior coordinators and other school employees to ensure that Security Officers are tasked only with duties related to law enforcement intervention and not tasked with behavioral or administrative duties better addressed by other School employees. *Education Code 37.081(d-4). The campus principal retains final authority to assign disciplinary consequences to students and staff.*

a) Law Enforcement Duties

A peace officer, a school resource officer, or security personnel shall perform law enforcement duties for Richard Milburn Academy that must include protecting:

1. The safety and welfare of any person in the jurisdiction of the peace officer, resource officer, or security personnel; and
2. The property of Richard Milburn Academy.
3.

Education Code 37.081(d-1).

A person permitted to carry a firearm on a Richard Milburn Academy campus may not perform the routine law enforcement duties of a peace officer, including making arrests, unless the duty is performed in response to an emergency that poses a threat of death or serious bodily injury to a student, school employee, or other individual at the school campus. *This limitation* does not apply to a commissioned peace officer who is assigned law enforcement duties that are included in campus and district documents describing the role of peace officers in the district as required by Education Code 37.081(d).

Education Code 37.089.

b) Student Discipline and School Administration

Richard Milburn Academy may not assign or require as duties of a charter school peace officer, a school resource officer, or security personnel:

1. Routine student discipline or school administrative tasks; or
2. Contact with students unrelated to the law enforcement duties of the peace officer, a school resource officer, or security personnel.

Education Code 37.081(d-2).

This limitation does not prohibit a charter school peace officer, a school resource officer, or security personnel from informal contact with a student unrelated to:

1. The assigned security or law enforcement duties of the peace officer, a school resource officer, or security personnel; or
2. An incident involving student behavior or law enforcement.

Education Code 37.081(d-3).

TPCSA Model Board Policy Series

Module 2 – Instruction

Richard Milburn Academy
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Adopted by Board of Directors
08/28/2025

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PG - 2.101 INSTRUCTIONAL PROGRAM OVERVIEW

Sec. 1. ESSENTIAL KNOWLEDGE AND SKILLS

Richard Milburn Academy shall establish instructional objectives that relate to the essential knowledge and skills for grade-level subjects or courses. These objectives shall address the skills needed for successful performance in the next grade or next course in a sequence of courses.

Assignments, tests, projects, classroom activities, and other instructional activities shall be designed so that the student's performance indicates the level of mastery of the designated curriculum objectives. The student's mastery level shall be a major factor in determining the grade for a subject or course.

Sec. 2. GUIDELINES FOR GRADING

The Superintendent or designee shall ensure that each campus or instructional level develops guidelines for teachers to follow in determining grades for students. These guidelines shall ensure that grading reflects a student's relative mastery of an assignment and that a sufficient number of grades are taken to support the grade average assigned. Guidelines for grading shall be clearly communicated to students and parents.

In accordance with grading guidelines, a student shall be permitted a reasonable opportunity to redo an assignment or retake a test for which the student received a failing grade.

Sec. 3. PROGRESS REPORTING

Grade/progress reports shall be issued on a form approved by the Superintendent or designee within the time period approved by the Superintendent or designee. Supplemental progress reports may be issued at the teacher's discretion.

Sec. 4. REPORT OF STUDENT PERFORMANCE TO PARENTS

Richard Milburn Academy shall provide a record of the comparisons of student performance made under Education Code 39.034 and provided to Richard Milburn Academy under Education Code 39.302 in a written notice to the student's parent or other person standing in parental relationship.

For a student who failed to perform satisfactorily as determined under either performance standard under Education Code 39.0241 on an assessment instrument administered under Education Code 39.023(a), (c), or (l), Richard Milburn Academy shall include in the notice specific information relating to access to educational resources at the appropriate assessment instrument content level, including assessment instrument questions and answers released under Education Code 39.023(e).

Education Code 39.303.

Sec. 5. CONFERENCES

Conferences may be requested by a teacher or parent as needed.

Sec. 6. ACADEMIC DISHONESTY

Academic Dishonesty Definition

Students found to have engaged in academic dishonesty shall be subject to grade penalties on assignments or tests and disciplinary penalties in accordance with the Student Code of Conduct. Academic dishonesty includes cheating, copying and/or modifying another student's work files stored on a computer, copying the work of another student or allowing another student to copy your work, plagiarism of any kind, including the use of electronic media, and unauthorized communication between students during or after an examination. The determination that a student has engaged in academic dishonesty shall be based on the judgment of the classroom teacher or another supervising employee, taking into consideration written materials, observation, or information from students.

PG. 2.102 EDUCATIONAL PROGRAM IN GENERAL

Sec. 1. SCHOOL YEAR

Richard Milburn Academy shall operate so that it provides the minimum number of 180 instructional days and/or minutes specified in the charter contract currently on file with the State of Texas.

Sec. 2. LENGTH OF SCHOOL DAY

A school day shall be at least 240 minutes each day, including intermissions and recesses.

Sec. 3. REQUIRED INSTRUCTION

A primary purposes of Richard Milburn Academy's curriculum is to prepare thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the basic democratic values of our state and national heritage. Richard Milburn Academy shall foster the continuation of the tradition of teaching United States and Texas history and the free enterprise system in regular subject matter, in reading courses, and in the adoption of textbooks.

Sec. 4. REQUIRED CURRICULUM

Richard Milburn Academy shall ensure that all students enrolled participate actively in a balanced curriculum designed to meet individual needs.

Richard Milburn Academy shall offer to students in all grade levels the curriculum required by the charter contract currently on file with the State of Texas. This curriculum shall include, at appropriate grade levels:

1. A foundation curriculum that includes:
   a. English language arts;
   b. Mathematics;
   c. Science; and
   d. Social studies, consisting of Texas, United States, and world history, government, economics, with emphasis on the free enterprise system and its benefits, and geography; and
2. An enrichment curriculum that includes:
   a. To the extent possible, languages other than English;
   b. Health, with emphasis on:
      i. Physical health, including the importance of proper nutrition and exercise;
      ii. Mental health, including instruction about mental health conditions, substance abuse, skills to manage emotions, establishing and maintaining positive relationships, and responsible decision-making; and
      iii. Suicide prevention, including recognizing suicide-related risk factors and warning signs;

c. Physical education;

d. Fine arts;
e. Career and technology education;
f. Technology applications;
g. Religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature; and
h. Personal financial literacy.

Education Code 12.111(a), 28.002(a), 28.025

Sec. 5. SOCIAL STUDIES INSTRUCTION

The following provisions in this Section apply for any social studies course in the required curriculum pursuant to Education Code 28.002(h-3):

a) Teacher Discussion

A teacher may not be compelled to discuss a particular current event or widely debated and currently controversial issue of public policy or social affairs. A teacher who chooses to do so shall, to the best of the teacher's ability, strive to explore the topic from diverse and contending perspectives without giving deference to any one perspective.

b) Students

Richard Milburn Academy or a Richard Milburn Academy teacher may not require, make part of a course, or award a grade or course credit, including extra credit, for a student's:

1. political activism, lobbying, or efforts to persuade members of the legislative or executive branch at the federal, state, or local level to take specific actions by direct communication; or
2. participation in any internship, practicum, or similar activity involving social or public policy advocacy

c) Trainings. Orientations, or Therapies

A teacher, administrator, or other employee of Richard Milburn Academy may not be required to engage in training, orientation, or therapy that presents any form of race or sex stereotyping or blame on the basis of race or sex.

d) Course Content

A teacher, administrator, or other employee of Richard Milburn Academy may not:

1. require or make part of a course the concept that:

    i. one race or sex is inherently superior to another race or sex;
    ii. an individual, by virtue of the individual's race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;
    iii. an individual should be discriminated against or receive adverse treatment solely or partly because of the individual's race;
    iv. members of one race or sex cannot and should not attempt to treat others without respect to race or sex;
    v. an individual's moral character, standing, or worth is necessarily determined by the individual's race or sex;

vi. an individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;
vii. an individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of the individual's race or sex;
viii. meritocracy or traits such as a hard work ethic are racist or sexist or were created by members of a particular race to oppress members of another race;
ix. the advent of slavery in the territory that is now the United States constituted the true founding of the United States; or
x. with respect to their relationship to American values, slavery and racism are anything other than deviations from, betrayals of, or failures to live up to, the authentic founding principles of the United States, which include liberty and equality; and

2. require an understanding of The 1619 Project.

Education Code 28.002(h-3).

Sec. 6. CHARACTER TRAITS AND PERSONAL SKILLS INSTRUCTION

Richard Milburn Academy shall adopt a character education program that includes the following positive character traits:

1. Courage;
2. Trustworthiness, including honesty, reliability, punctuality, and loyalty;
3. Integrity;
4. Respect and courtesy;
5. Responsibility, including accountability, diligence, perseverance, and self-control;
6. Fairness, including justice and freedom from prejudice;
7. Caring, including kindness, empathy, compassion, consideration, patience, generosity, and charity;
8. Good citizenship, including patriotism, concern for the common good and the community, and respect for authority and the law;
9. School pride; and
10. Gratitude.

Beginning with the 2022-2023 school year, Richard Milburn Academy shall adopt a character education program that includes the following positive character traits and personal skills:

1. Courage;
2. Trustworthiness, including honesty, reliability, punctuality, and loyalty;
3. Integrity;
4. Respect and courtesy;
5. Responsibility, including accountability, diligence, perseverance, self-management skills, and self-control;
6. Fairness, including justice and freedom from prejudice;
7. Caring, including kindness, empathy, compassion, consideration, patience, generosity, charity, and interpersonal skills;
8. Good citizenship, including patriotism, concern for the common good and the community, responsible decision-making skills, and respect for authority and the law;
9. School pride; and

10. Gratitude.

The programs shall be implemented in accordance with guidelines published by the Commissioner of Education / State Board of Education.

Education Code 29.906.

Sec. 7. CARDIOPULMONARY RESUSCITATION AND AUTOMATED EXTERNAL DEFRIBILLATOR INSTRUCTION

Richard Milburn Academy shall provide instruction to students in grades 9 through 12 in cardiopulmonary resuscitation and the use of an automated external defibrillator in a manner consistent with State Board of Education requirements. The instruction may be provided as a part of any course. A student shall receive the instruction at least once before graduation.

Cardiopulmonary resuscitation instruction must include training in cardiopulmonary resuscitation techniques and the use of an automated external defibrillator that has been developed:

1. By the American Heart Association or the American Red Cross; or
2. Using nationally recognized, evidence-based guidelines for emergency cardiovascular care and incorporating psychomotor skills to support the instruction.

Richard Milburn Academy may use emergency medical technicians, paramedics, police officers, firefighters, representatives of the American Heart Association or the American Red Cross, teachers, other school employees, or other similarly qualified individuals to provide instruction and training under this section. Instruction is not required to result in certification in cardiopulmonary resuscitation or the use of an automated external defibrillator. If instruction is intended to result in certification in cardiopulmonary resuscitation or the use of an automated external defibrillator, the course instructor must be authorized to provide the instruction by the American Heart Association, the American Red Cross, or a similar nationally recognized association.

A school administrator may waive this curriculum requirement for an eligible student with a disability.

Education Code 28.0023.

Sec. 8 FENTANYL ABUSE PREVENTION AND DRUG POISONING AWARENESS EDUCATION

Richard Milburn Academy shall annually provide research-based instruction related to fentanyl abuse prevention and drug poisoning awareness to students in grades 9 through 12. The instruction required by this section must include:

1. Suicide prevention;
2. Prevention of the abuse of and addiction to fentanyl;
3. Awareness of local school and community resources and any processes involved in accessing those resources; and

4. Health education that includes information about substance use and abuse, including youth substance use and abuse.

The instruction required by this section may be provided by an entity or an employee or agent of an entity that is:

1. A public or private institution of higher education;
2. A library;
3. A community service organization;
4. A religious organization;
5. A local public health agency; or
6. An organization employing mental health professionals.

Education Code 38.040.

Sec. 9. SCHOOL CALENDAR

The Superintendent shall develop a school calendar reflecting Richard Milburn Academy's operations in accordance with the requirements of the charter contract. The Superintendent or designee shall distribute the school calendar to all students and parents.

Sec. 10. RECOGNITION DATES

Richard Milburn Academy will regularly observe recognition dates, weeks, and months designated by the State of Texas by appropriate programs, celebrations, and activities. These recognition dates include, but are not limited to:

Hydrocephalus Awareness Month: September is Hydrocephalus Awareness Month to:

1. Increase public awareness of hydrocephalus; and
2. Encourage the development of partnerships between the federal government, health care professionals, and patient advocacy groups to advance the public's understanding of the condition, improve the diagnosis and treatment of the condition, and support research for a cure.

Gov't Code 622.106.

Texas History Month: March is Texas History Month in honor of those Texans who helped shape the history of the State of Texas and in recognition of events throughout Texas' history. Texas History Month shall be regularly observed by appropriate celebrations and activities in public schools to promote interest in and knowledge of Texas history. *Gov't Code 662.102*.

Celebrate Freedom Week: To educate students about the sacrifices made for freedom in the founding of this country and the values on which this country was founded, the week in which September 17 falls is designated as Celebrate Freedom Week. *Education Code 29.907*.

Generation Texas Week: To educate middle school and high school students about the importance of higher education, the Superintendent shall designate one week during the school year as Generation Texas Week. The Superintendent shall designate one week during the school year as Generation Texas Week for all high

school students attending Richard Milburn Academy.

During the designated week, each school shall provide students with comprehensive grade- appropriate information regarding the pursuit of higher education. The information provided must include information regarding:

1. Higher education options available to students;
2. Standard admission requirements for institutions of higher education, including:
   a. Overall high school grade point average;
   b. Required curriculum;
   c. College readiness standards and expectations as determined under Education Code 28.008; and
   d. Scores necessary on generally recognized tests or assessment instruments used in admissions determinations, including the Scholastic Assessment Test and the American College Test;
3. Automatic admission of certain students to general academic teaching institutions as provided by Education Code 51.803; and
4. Financial aid availability and requirement, including the financial aid information provided under Education Code 33.007(b).

Additionally, each high school shall provide to the students during the designated week at least one public speaker to promote the importance of higher education.

Education Code 29.911.

Holocaust Remembrance Week: The governor shall designate a week to be known as "Holocaust Remembrance Week" in public schools to educate students about the Holocaust and inspire a sense of responsibility to recognize and uphold human value and to prevent future atrocities.

Holocaust Remembrance Week shall include age-appropriate instruction, as determined by Richard Milburn Academy:

1. Information about the history of and lessons learned from the Holocaust;
2. Participation, in person or using technology, in learning projects about the Holocaust; and
3. The use of materials developed or approved by the Texas Holocaust and Genocide Commission.

Education Code 29.9072.

American Indian Heritage Day: The last Friday in September is American Indian Heritage Day in recognition of the historic, cultural, and social contributions American Indian communities and leaders have made to this state. American Indian Heritage Day shall be regularly observed by appropriate ceremonies, activities, and programs in public schools to honor American Indians in this state and to celebrate the rich traditional and contemporary American Indian culture. *Gov't Code 662.056*.

Constitution Day: Upon receipt of federal funds, Richard Milburn Academy shall recognize September 17 as Constitution Day and hold an educational program on the United States Constitution for students served by Richard Milburn Academy. *Pub. L. 108-447*.

Father of Texas Day: November 3 is Father of Texas Day in memory of Stephen F. Austin. Father of Texas Day shall be regularly observed by appropriate and patriotic programs in public schools to properly

commemorate the birthday of Stephen F. Austin and to inspire a greater lover for this state. *Gov't Code 662.045*.

Public School Paraprofessional Day: The second Wednesday in May of each year is Public School Paraprofessional Day in recognition of education paraprofessionals including teacher assistants, instructional aides, educational trainers, library attendants, bilingual assistants, special education associates, mentors, and tutors. Public School Paraprofessional Day shall be regularly observed by appropriate ceremonies and activities in public schools to properly recognize the paraprofessionals who have made tremendous contributions to the educational process. *Gov't Code 662.049*.

Sam Rayburn Day: January 6 is Sam Rayburn Day in memory of the Texas and American statesman, Sam Rayburn. Sam Rayburn Day shall be regularly observed by appropriate programs in public schools to commemorate the birthday of Sam Rayburn. *Gov't Code 662.041*.

September 11: To commemorate the events of September 11, 2001, in each year that date falls on a regular school day, each public elementary or secondary school shall provide for the observance of one minute of silence at the beginning of the first class period of that day. Immediately before the period of observance required by this section, the class instructor shall make a statement of reference to the memory of individuals who died on September 11, 2001. The period of observance required by this section may be held in conjunction with the minute of silence required by Section
25.82. *Education Code 25.0821*.

State of Texas Anniversary Remembrance Day: February 19 is State of Texas Anniversary Remembrance Day (STAR Day) in honor of Texas joining the Union and the day that James Pinckney Henderson became the first governor of the State of Texas in 1846. STAR Day shall be regularly observed by appropriate and patriotic programs in the public schools to properly commemorate the annexation of this state and to inspire a greater appreciation for the history of this state. *Gov't Code 662.047*.

Texas First Responders Day: September 11 is Texas First Responders Day in honor of the bravery, courage, and determination of Texas men and women who assist others in emergencies. Texas First Responders Day shall be regularly observed by appropriate ceremonies in public schools to honor Texas first responders. *Gov't Code 662.050*.

Texas Fruit and Vegetable Day: The first Friday in April is designated as Texas Fruit and Vegetable Day in public schools to promote awareness of the health benefits of fruits and vegetables and to encourage students to consume more fruits and vegetables during Texas Fruit and Vegetable Month. Texas Fruit and Vegetable Day shall include appropriate instruction, as determined by Richard Milburn Academy.

Education Code 29.9073.

Texas Military Heroes Day: The governor shall designate a day to be known as Texas Military Heroes Day in public schools to educate students about the sacrifices made by Texans who have served in the armed forces of the United States. Texas Military Heroes Day will include appropriate instruction, as determined by Richard Milburn Academy. Instruction may include:

1. Information about persons who have served in the armed forces of the United States and are from the community or the geographic area in which Richard Milburn Academy is located; and
2. Participation, in person or using technology, in age-appropriate learning projects at battlefields and gravesites associated with a person who has served in the armed forces.

Education Code 29.9071.

Women's Independence Day: August 26 is Women's Independence Day to commemorate the ratification in 1920 of the Nineteenth Amendment to the United States Constitution, which guaranteed women the right to vote. Women's Independence Day shall be regularly observed by appropriate programs in the public schools to inspire a greater appreciation of the importance of women's suffrage. *Gov't Code 662.051*.

Sec. 11. EXERCISE OF CONSTITUTIONAL RIGHT TO PRAY

Each Richard Milburn Academy student has an absolute right to individually, voluntarily, and silently pray or meditate in school in a manner that does not disrupt the instructional or other activities of the school. A person shall not require, encourage, or coerce a student to engage in or refrain from such prayer or meditation during any school activity. *Education Code 25.901*

PG.-2.103 ACADEMIC ACHIEVEMENT

Sec. 1. GRADUATION REQUIREMENTS

Credit counted toward high school graduation may be earned only if the student received a grade equivalent to 70 or higher on a scale of 100, based upon the essential knowledge and skills of each course completed. Credit earned toward state graduation requirements in an accredited school district shall be transferable and must be accepted by any other school in the state.

Sec. 2. ACADEMIC ACHIEVEMENT RECORD

Richard Milburn Academy shall use the academic achievement record (transcript) form designated by the Commissioner of Education ("Commissioner"). This form shall serve as the academic record for each student and shall be maintained permanently by Richard Milburn Academy.

Any credit earned by a student must be recorded on the academic achievement record, regardless of when the credit was earned. A student's performance on a state assessment, including an end- of-course assessment instrument required under Education Code 39.023(c), must be included in the student's academic achievement record.

Copies of the academic achievement record shall be made available to students transferring to another public school. Richard Milburn Academy shall respond promptly to all requests for student records from receiving schools.

Education Code § 28.025(e); 19 TAC § 74.5(b)-(d).

a) Transcript Seals

A student who completes high school graduation requirements shall have attached to the academic achievement record the State Board-approved seal. *19 TAC § 74.5(e)*.

b) Endorsement

A student who completes the requirements for an endorsement shall have the endorsement clearly indicated on the academic achievement record. *19 TAC § 74.5(f)*.

c) Performance Acknowledgment

A student who earns a performance acknowledgment shall have the performance acknowledgment clearly indicated on the academic achievement record. *19 TAC § 74.5(g)*.

d) Distinguished Level of Achievement

A student who earns the distinguished level of achievement shall have the distinguished level of achievement clearly indicated on the academic achievement record and on the diploma. *19 TAC § 74.5(h)*.

e) Completion of Speech Requirements

A student who demonstrates proficiency in speech as specified in 19 Texas Administrative Code § 74.11 shall have completion of the speech requirement clearly indicated on the academic achievement record. *19 TAC § 74.5(i)*.

f) Completion of CPR Instruction

A student who completes instruction in cardiopulmonary resuscitation (CPR) as specified in 19 Texas Administrative Code § 74.38 in grade 9, 10, 11, or 12 shall have completion of the CPR instruction clearly indicated on the academic achievement record. *19 TAC § 74.5(j)*.

g) Proper Interaction with Peace Officers

A student who completes the required instruction on proper interaction with peace officers shall have completion of the instruction clearly indicated on the academic achievement record. *19 TAC § 74.5(k)*.

Completion of Financial Aid Application

A student who completes and submits a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA) or submits the Texas Education Agency-approved opt-out form shall have the completion of the financial aid application requirement clearly indicated on the academic achievement record. *19 TAC 74.5(l)*.

h) Languages Other than English

A student who satisfies a languages other than English graduation credit requirement by successfully completing a dual language immersion program at an elementary school as specified in 19 Texas Administrative Code § 74.12(b)(5)(F) shall have the credit clearly indicated on the academic achievement record. *19 TAC § 74.5(m)*.

j) Early High School Completion Program

A student who earns a high school diploma by satisfying the requirements of the Texas First Early High School Completion Program shall have completion of the program and the distinguished level of achievement clearly indicated on the academic achievement record. *19 TAC 74.5(n)*.

j) Certificate of Coursework Completion

A student who completes all graduation requirements except for required end-of-course assessment instruments may be issued a certificate of coursework completion. The academic achievement record shall include a notation of the date a certificate of completion was issued to the student. *19 TAC § 74.5(0)*.

Richard Milburn Academy may allow a student who receives a certificate to participate in a graduation with students receiving high school diplomas.

PG.-2.104 GRADUATION REQUIREMENTS

Sec. 1. COURSE AND DIPLOMA REQUIREMENTS

A student may graduate and receive a diploma only if:

1. The student successfully completes the curriculum requirements identified by the State Board of Education and complies with requirements related to financial aid applications for high school graduation and secondary-level performance on end-of-course assessments;
2. The student successfully completes the Texas First Early High School Completion Program; or
3. The student successfully completes an individualized education program.

Education Code 28.025(c), 28.0253

a) Individual Graduation Committee

Without complying with the requirements discussed above, certain students may receive a diploma if the student is eligible for a diploma as determined by an individual graduation committee (IGC) in accordance with the guidelines below.. *Education Code 25.025(c-6), .0258*.

For each 11th or 12th grade student who has failed to comply with end-of-course (EOC) assessment instrument performance requirements for not more than two courses, Richard Milburn Academy shall establish an IGC at the end of or after the student's 11th grade year to determine whether the student may qualify to graduate. An IGC may not qualify a student to graduate before the student's 12th grade year.

The IGC shall be composed of:

1. The Principal or Principal's designee;
2. For each EOC assessment instrument on which the student failed to perform satisfactorily, the teacher of the course;
3. The department chair or lead teacher supervising the teacher(s) described above; and
4. As applicable:
    a. The student's parent;
    b. A designated advocate if the parent is unable to serve; or
    c. The student, at the student's option, if the student is at least 18 years of age or is an emancipated minor.

Richard Milburn Academy shall provide an appropriate translator, if available, for a parent, advocate, or student who is unable to speak English.

Education Code 28.0258(a)-(c), (c-2); *19 TAC 74.1025*.

b) Notice

Richard Milburn Academy shall ensure a good faith effort is made to timely notify the appropriate person(s) described under Sec. 1-a, Item 4 of the time and place for concerning the IGC and the purpose of the IGC. The notice must be:

1. Provided in person or by regular mail or e-mail;
2. Clear and easy to understand; and
3. Written in English, in Spanish, or, to the extent practicable, in the native language of the appropriate person(s).

Education Code 28.0258(d).

c) Eligibility to Graduate

To be eligible to graduate and receive a high school diploma as determined by an IGC, a student must successfully complete the curriculum requirements for high school graduation identified by the State Board of Education.

A student's IGC shall also recommend additional requirements by which the student may qualify to graduate, including:

1. Additional remediation; and
2. For each EOC assessment instrument on which the student failed to perform satisfactorily:
    a. The completion of a project related to the subject area of the course that demonstrates proficiency in the subject area; or
    b. The preparation of a portfolio of work samples in the subject area of the course, including work samples from the course that demonstrate proficiency in the subject area.

A student may submit to the IGC coursework previously completed to satisfy a recommended additional requirement.

Education Code 28.0258(f), (g).

The IGC will consider the criteria at Education Code 28.0258(h) and any other academic information designated for consideration by the State Board of Education in determining whether a student is qualified to graduate. After considering the criteria, the IGC may determine that the student is qualified to graduate. A student may graduate and receive a diploma on the basis of the IGC's decision only if the student successfully completes all additional requirements recommended by the IGC, the student meets applicable curriculum requirements, and the IGC's vote is unanimous. The IGC's decision is final and may not be appealed. *Education Code 28.0258(i)*.

Sec. 2. GRADUATION REQUIREMENTS FOR STUDENTS ENTERING GRADE 9 IN OR AFTER THE 2014–2015 SCHOOL YEAR

To receive a high school diploma, a student entering grade 9 in the 2014–2015 school year and thereafter must complete:

1. Requirements of the foundation high school program under 19 Administrative Code 74.12 (see Sec. 2-a, "Foundation High School Program," below);
2. Testing requirements for graduation under 19 Administrative Code Chapter 101; and
3. Demonstrated proficiency, as determined by Richard Milburn Academy, in delivering clear verbal messages; choosing effective nonverbal behaviors; listening for desired results; applying valid critical-thinking and problem-solving processes; and identifying, analyzing, developing, and evaluating communication skills needed for professional and social success in interpersonal situations, group interactions, and personal and professional presentations.

A student shall enroll in the courses necessary to complete the curriculum requirements for the foundation high school program specified in 19 Administrative Code 74.12 and the curriculum requirements for at least one endorsement.

Education Code 28.025(c); 19 TAC 74.11(a), (c).

a) Foundation High School Program

A student must earn at least 22 credits to complete the foundation high school program and must demonstrate proficiency in the following core courses:

1. English language arts—4 credits;
2. Mathematics—3 credits;
3. Science—3 credits;
4. Social Studies—3 credits;
5. Languages other than English—2 credits;
6. Physical Education—1 credit;
7. Fine Arts—1 credit; and
8. Elective courses—5 credits.

19 TAC 74.12.

b) Endorsements

A student shall specify in writing an endorsement the student intends to earn upon entering grade 9. A student may earn any of the following endorsements:

1. Science, technology, engineering, and mathematics (STEM);
2. Business and industry;
3. Public services;
4. Arts and humanities; and
5. Multidisciplinary studies.

Richard Milburn Academy must make at least one endorsement available to students. If Richard Milburn Academy offers only one endorsement, its curriculum must offer multidisciplinary studies.

To earn an endorsement a student must demonstrate proficiency in the curriculum requirements for the foundation high school program and, in accordance with 19 Administrative Code 74.13(e), earn:

1. A fourth credit in mathematics;
2. An additional credit in science; and
3. Two additional elective credits.

A course completed as part of the four courses needed to satisfy an endorsement requirement may also satisfy a requirement under the foundation high school program, including an elective requirement. The same course may count as part of the set of four courses for more than one endorsement.

Richard Milburn Academy shall permit a student to enroll in courses under more than one endorsement before the student's junior year and to choose, at any time, to earn an endorsement other than the endorsement the student previously indicated.

A student must earn at least 26 credits to earn an endorsement, but a student is not entitled to remain enrolled to earn more than 26 credits.

Richard Milburn Academy may define advanced courses and determine a coherent sequence of courses for an endorsement area, provided that prerequisites in 19 Administrative Code Chapters 110–118, 126, 127, and 130 are followed.

Education Code 28.025; 19 TAC 74.13

i. Exception

A student may graduate under the foundation high school program without earning an endorsement if, after the student's sophomore year:

1. The student and the student's parent or person standing in parental relation to the student are advised by a school counselor of the specific benefits of graduating from high school with one or more endorsements; and
2. The student's parent or person standing in parental relation to the student files with a school counselor's written permission, on a form adopted by Texas Education Agency, allowing the student to graduate under the foundation high school program without earning an endorsement.

19 TAC 74.11(d).

c) Distinguished Level of Achievement

A student may earn a distinguished level of achievement by successfully completing the curriculum requirements for the foundation high school program and the curriculum requirements for at least one endorsement, including four credits in science and four credits in mathematics, including Algebra II. *19 TAC 74.11(e)*.

d) Texas First Early High School Completion Program

Richard Milburn Academy shall allow a student to graduate and receive a high school diploma under the Texas First Early High School Completion Program (the "Program") if, using the standards established under Education Code Section 28.0253(c), the student demonstrates mastery of and early readiness for college in each of the subject areas described by Section 28.0253(c) and in a language other than English, notwithstanding any other local or

state requirements. A student who earns a high school diploma through the Program is considered to have earned a distinguished level of achievement under the foundation high school program adopted under Section 28.025.

Education Code Section 28.0253(a)-(f).

On a student's initial enrollment in high school in a grade below grade 12, Richard Milburn Academy shall provide to the student and the student's parent or guardian information regarding:

1. the requirements to earn a high school diploma under the Program; and
2. the Texas First Scholarship Program established under Subchapter K-1, Chapter 56.

Education Code Section 28.0253(g).

e) Prerequisites

A student may not be enrolled in a course that has a required prerequisite unless:

1. The student has successfully completed the prerequisite course(s);
2. The student has demonstrated equivalent knowledge as determined by Richard Milburn Academy; or
3. The student was already enrolled in the course in an out-of-state, an out-of-country, or a Texas nonpublic school and transferred to a Texas public school prior to successfully completing the course.

Richard Milburn Academy may award credit for a course a student completed without having met the prerequisites if the student completed the course in an out-of-state, an out-of-country, or a Texas nonpublic school where there was not a prerequisite.

19 TAC 74.11(i), (j).

f) College Courses

Courses offered for dual credit at or in conjunction with an institution of higher education that provide advanced academic instruction beyond, or in greater depth than, the essential knowledge and skills for the equivalent high school course required for graduation may satisfy graduation requirements, including requirements for required courses, advanced courses, and courses for elective credit as well as requirements for endorsements. *19 TAC 74.11(h)*.

g) Languages Other than English

Students may earn credit for language other than English in accordance with 19 Administrative Code 74.12(b)(5). A student who successfully completes a dual language immersion program may satisfy one credit of the two credits required in a language other than English in accordance with 19 Administrative Code 74.12(b)(5)(F). *19 TAC 74.12(b)(5)*.

h) Physical Education Substitutions

To the extent permitted by state rules applicable to the student's graduation program, Richard Milburn

Academy shall award state graduation credit in physical education for participation in approved activities and elective courses.

Richard Milburn Academy shall award state graduation credit in physical education for appropriate private or commercially sponsored physical activity programs conducted either on or off campus, upon approval by the Commissioner of Education ("Commissioner").

A student who is unable to participate in physical activity due to disability or illness may substitute an academic elective credit in English language arts, mathematics, science, social studies or a course that is offered for credit as provided by Education Code 28.002(g-1) for the required physical education credit. A credit allowed to be substituted may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The determination regarding a student's ability to participate in physical activity must be made by:

1. The student's admission, review and dismissal ("ARD") committee if the student receives special education services;
2. The student's Section 504 Committee, if the student does not receive special education services under Education but is covered by Section 504; or
3. A committee, established by Richard Milburn Academy, of persons with appropriate knowledge regarding the student if each of the committees described above is inapplicable. This committee must follow the same procedures required of an ARD or a Section 504 Committee.

Education Code 28.025(b-10)–(b-11); 19 TAC 74.12(b)(6).

i) Community-Based Fine Arts Programs

In accordance with local Richard Milburn Academy policy, the required fine arts credit may be earned through participation in a community-based fine arts program not provided by Richard Milburn Academy. Such credit may be earned through participation in the community-based fine arts program only if the program meets each of the following requirements:

1. Richard Milburn Academy must apply to the Commissioner for approval of the community-based fine arts program;
2. The State Board of Education must certify that the program provides instruction in the essential knowledge and skills for fine arts as defined by 19 Administrative Code Chapter 117, Subchapter C;
3. Richard Milburn Academy must document student completion of the approved activity;
4. The program must be organized and monitored by appropriately trained instructors;
5. The fine arts program may be provided on or off a school campus and outside the regular school day; and
6. Students may not be dismissed from any part of the regular school day to participate in the community-based fine arts program.

Richard Milburn Academy shall require that instructors of the community-based fine arts program provide Richard Milburn Academy, at its request, the information necessary to obtain the criminal history record information required for school personnel in accordance with 19 Administrative Code Chapter 153,

Subchapter DD, if the community-based program is offered on campus.

Education Code 28.025(b-9); 19 TAC 74.12(b)(7)(B), .1030.

j) Performance Acknowledgments

In accordance with the requirements of 19 Administrative Code 74.14, a student may earn a performance acknowledgment on the student's transcript for:

1. Outstanding performance:
   a. In a dual credit course;
   b. In bilingualism and bi-literacy;
   c. On a College Board advanced placement test or international baccalaureate examination;
   d. On an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument used to measure a student's progress toward readiness for college and the workplace (PSAT/ACT-Plan); or
   e. On an established, valid, reliable, and nationally norm-referenced assessment instrument used by colleges and universities as part of their undergraduate admissions process (SAT/ACT); or
2. Earning a state-recognized or nationally or internationally recognized business or industry certification or license.

Education Code 28.025(c-5); 19 TAC 74.14.

Sec. 3. TRANSFERS FROM OUT-OF-STATE OR NONPUBLIC SCHOOLS

An out-of-state or out-of-country transfer student (including foreign exchange students) or a transfer student from a Texas nonpublic school is eligible to receive a Richard Milburn Academy diploma, but must complete all applicable high school graduation requirements. Any course credits required for graduation that are not completed before enrollment may be satisfied through credit by examination, correspondence courses, distance learning, or completing the course, according to the provisions of 19 Administrative Code 74.26. *19 TAC 74.51(f), .61(i).*

Sec. 4. STUDENTS RECEIVING SPECIAL EDUCATION SERVICES

a) Definitions

"Modified curriculum" and "modified content" refer to any reduction of the amount or complexity of the required knowledge and skills in 19 Administrative Code Chapters 110–118, 126–128, and 130. Substitutions that are specifically authorized in statute or rule must not be considered modified curriculum or modified content. *19 TAC 89.1070(l).*

"Employability and self-help skills" are those skills directly related to the preparation of students for employment, including general skills necessary to obtain or retain employment. *19 TAC 89.1070(j).*

b) Summary of Academic Achievement and Evaluation

All students graduating must be provided with a summary of academic achievement and functional performance as described in 34 C.F.R. 300.305(e)(3). This summary must consider, as appropriate, the views of the parent and student and written recommendations from adult service agencies on how to assist the

student in meeting postsecondary goals. An evaluation as required by 34 C.F.R. 300.305(e)(1) (evaluation to determine that the child is no longer a child with a disability), must be included as part of the summary for a student graduating under 19 Administrative Code 89.1070(b)(2)(A), (B), or (C) or (g)(4)(A), (B), or (C). Students who participate in graduation ceremonies but who are not graduating under subsections (b)(2)(A), (B), or (C) or (g)(4)(A), (B), or (C) and who will remain in school to complete their education do not have to be evaluated. *19 TAC 89.1070(h), (i).*

c) Students Entering Grade 9 In or After the 2014-2015 School Year

A student entering grade 9 in the 2014–2015 school year and thereafter who receives special education services may graduate and be awarded a regular high school diploma if the student meets one of the following conditions:

1. The student has demonstrated mastery of the required state standards (or Richard Milburn Academy standards if greater) in 19 Administrative Code Chapters 110-118, 126–128, and 130 and satisfactorily completed credit requirements for graduation under the foundation high school program specified in 19 Administrative Code 74.12 applicable to students in general education as well as satisfactory performance on the required state assessments, unless the student's ARD committee has determined that satisfactory performance on the required state assessments is not necessary for graduation.
2. The student has demonstrated mastery of the required state standards (or Richard Milburn Academy standards if greater) in 19 Administrative Code Chapters 110–118, 126–128, and 130 and satisfactorily completed credit requirements for graduation under the foundation high school program through courses, one or more of which contain modified curriculum that is aligned to the standards applicable to students in general education, as well as satisfactory performance on the required state assessments, unless the student's ARD committee has determined that satisfactory performance on the required state assessments is not necessary for graduation. The student must also successfully complete the student's Individualized Education Program ("IEP") and meet one of the following conditions:
    a. Consistent with the IEP, the student has obtained fulltime employment, based on the student's abilities and local employment opportunities, in addition to mastering sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of Richard Milburn Academy.
    b. Consistent with the IEP, the student has demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of Richard Milburn Academy.
    c. The student has access to services that are not within the legal responsibility of public education or employment or educational options for which the student has been prepared by the academic program.
    d. The student no longer meets age eligibility requirements.

When a student receives a diploma under item 2(a), (b), or (c), above, the ARD committee must determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age eligibility requirements.

19 TAC 89.1070(b), (k).

d) Endorsements

A student enrolled in a special education program may earn an endorsement on his or her transcript by:

1. Successfully completing, with or without modification of the curriculum:
   a. The curriculum requirements identified by the State Board of Education for the foundation high school program; and
   b. The additional endorsement curriculum requirements prescribed by the State Board of Education; and
2. Successfully completing all curriculum requirements for the endorsement adopted by the State Board of Education:
   a. Without modification of the curriculum; or
   b. With modification of the curriculum, provided that the modified curriculum is sufficiently rigorous as determined by the student's ARD committee.

The ARD committee shall determine whether the student is required to achieve satisfactory performance on an EOC instrument to earn an endorsement on the student's transcript.

Education Code 28.025(c-7)-(c-8).

Sec. 5. GRADUATION OF MILITARY DEPENDENTS

a) Course Waiver Requirements

Richard Milburn Academy shall waive specific courses required for graduation if similar coursework has been satisfactorily completed by a military student in another district, or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, Richard Milburn Academy shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

b) Transfers During Senior Year

Should a military student transferring at the beginning or during the student's senior year be ineligible to graduate from Richard Milburn Academy after all alternatives have been considered, the sending district and Richard Milburn Academy shall ensure the receipt of a diploma from the sending district, if the student meets the graduation requirements of the sending district.

c) Passing Standard Substitutions

Richard Milburn Academy may utilize a substitute passing standard adopted by the Commissioner on one or more national norm-referenced achievement tests for purposes of permitting a qualified military dependent to meet that standard as a substitute for completing a specific course otherwise required for graduation. The passing standard is available only for a student who enrolls in a public school in Texas for the first time after completing the ninth grade or who reenrolls in a Texas public school at or above the tenth grade level after an absence of at least two years from Texas public schools. Each passing standard in effect when a
student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard.

Education Code 162.002 art. VII, §§ A, C.

Sec. 6. GRADUATION OF A STUDENT WHO IS HOMELESS OR IN CONSERVATORSHIP OF DFPS

If an 11th or 12th grade student who is homeless or in the conservatorship of the Department of Family and Protective Services transfers to Richard Milburn Academy and the student is ineligible to graduate from Richard Milburn Academy, the public school from which the student transferred shall award a diploma at the student's request, if the student meets the graduation requirements of the school from which the student transferred. *Education Code 28.025(i)*.

PG.-2.105 MAKE UP WORK

Sec. 1. GENERAL GUIDELINES

Students shall be permitted to make up assignments and tests following any absence. Students shall receive a zero for any assignment or test not made up within the allotted time.

Teachers may assign additional work to ensure that students who have been absent have sufficient opportunity to master the Texas Essential Knowledge and Skills (TEKS) or to meet subject or course requirements. The assignments shall be based on the instructional objectives for the subject or course and may provide greater depth of subject matter than routine make-up work.

Sec. 2. TESTS AND MAKEUP WORK

Students shall be permitted to make up assignments and tests following any absence.

Teachers may assign additional work to ensure that students who have been absent have sufficient opportunity to master the TEKS or to meet subject or course requirements. The assignments shall be based on the instructional objectives for the subject or course and may provide greater depth of subject matter than routine makeup work.

A student shall be responsible for obtaining and completing the make-up work in a satisfactory manner and within the time specified by the teacher.

Sec. 3. LATE PROJECTS

Teachers may assign a late penalty to any project turned in after the due date. Late projects will be accepted within the grading period without penalty with an excused absence. All late work will be graded and added to the grade book. Five points per week will be deducted from each assignment. An action plan to complete all missed assignments will be created by the teacher.

RMA will ensure that the student and parent are notified in writing concerning penalties for late projects.

PG.-2.106 CAREER AND TECHNOLOGY EDUCATION

Sec. 1. CAREER AND TECHNOLOGY PROGRAM

The Board may conduct and supervise career and technology classes and other educational programs for students and spend local maintenance funds for the cost of those classes and programs. In developing a career and technology program, the Board shall consider the state plan for career and technology education. *Education Code 29.183*.

Sec. 2. DISTINGUISHED ACHIEVEMENT IN CAREER AND TECHNOLOGY EDUCATION

The Board may develop and offer a program that provides a rigorous course of study consistent with the required curriculum and under which a student may:

1. Receive specific education in a career and technology profession that leads to postsecondary education or meets or exceeds business or industry standards; and
2. Obtain from Richard Milburn Academy an award for distinguished achievement in career and technology education and a stamp or other notation on the student's transcript that indicates receipt of the award.

An award granted under this provision is not in lieu of a diploma or certificate of coursework completion.

a) Contracts with Other Entities

The Board may contract with an entity identified in Education Code 29.184(a) for assistance in developing the program or providing instruction to students participating in the program. The Board may also contract with a local business or a local institution of higher education for assistance in developing or operating a career and technology education program. A program may provide education in areas of technology unique to the local area. *Education Code 29.187*.

b) Insurance

If a business that contracts with Richard Milburn Academy obtains any insurance related to the student other than liability insurance, any proceeds of the insurance must be used for the benefit of the student and the student's family. *Education Code 29.187(g).*

Sec. 3. PROVIDING CAREER AND TECHNICAL EDUCATION

The following provisions apply only if Richard Milburn Academy receives federal career and technical education funds. *19 TAC 75.1021*.

a) Students with Disabilities

A student with a disability shall be provided career and technical education in accordance with all applicable federal law and regulations including the Individuals with Disabilities Education Act ("IDEA") and its implementing regulations, state statutes, and rules of the State Board of Education and the Commissioner of Education ("Commissioner").

A student with a disability shall be instructed in accordance with the student's Individualized Education Program ("IEP"), in the least restrictive environment, as determined by the student's admission, review and dismissal ("ARD") committee. If a student with a disability is unable to receive a free appropriate public education (educational benefit) in a regular career and technical education program, using supplementary aids and services, the student may be served in separate programs designed to address the student's occupational/training needs, such as career and technical education for students with disabilities.

A student with a disability identified in accordance with the IDEA is an eligible participant in career and technical education when the following requirements are met:

1. The ARD committee shall include a representative from career and technical education, preferably the teacher, when considering initial or continued placement of a student in career and technical education program;

2. Planning for the student shall be coordinated among career and technical education, special education, and state rehabilitation agencies and should include a coherent sequence of courses;
3. Richard Milburn Academy shall monitor to determine if the instruction being provided to a student with a disability in career and technical education classes is consistent with the student's IEP;
4. Richard Milburn Academy shall provide supplementary services that each student with a disability needs to successfully complete a career and technical education program, such as curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices;
5. Richard Milburn Academy shall help fulfill the transitional service requirements of the IDEA and implementing regulations, state statutes, and rules of the Commissioner for each student with a disability who is completing a coherent sequence of career and technical education courses.
6. When determining placement in a career and technical education classroom, the ARD committee shall consider a student's graduation plan, the content of the individual transition plan, the IEP, including the consideration of transition services, and classroom supports. Enrollment numbers should not create a harmful effect on student learning for a student with or without disabilities in accordance with the provisions in the IDEA and its implementing regulations.

19 TAC 75.1023.

b) Student Organizations

Richard Milburn Academy may use federal career and technical education funds to provide opportunities for student participation in approved student leadership organizations and assist career and technical student organizations in accordance with all applicable federal and state laws, rules, and regulations. However, students shall not be required to join such an organization. Student participation in career and technical student organizations shall be governed in accordance with 19 TAC Chapter 76 (relating to extracurricular activities).

The following career and technical student organizations are recognized by the U.S. Department of Education and the TEA:

1. Business Professionals of America (BPA);
2. DECA;
3. Future Business Leaders of America (FBLA);
4. Future Educators Association (FEA);
5. FFA;
6. Family, Career, and Community Leaders of America (FCCLA);
7. Health Occupations Students of America (HOSA);
8. Technology Student Association (TSA); and
9. Skills USA.

19 TAC 75.1024.

c) Program Evaluation

If Richard Milburn Academy operates a career and technical education program, such program shall be annually evaluated. *19 TAC 75.1025*.

d) Annual Notification

If Richard Milburn Academy operates a career and technical education program, the Superintendent shall advise students, parents, employees, and the general public prior to the beginning of each school year that all career and technical education opportunities will be offered without regard to race, color, national origin, sex, or disability. Such notification shall comply with the guidelines provided by the *Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex, and Handicap*, published by the Office for Civil Rights.

PG.-2.107 COMPENSATORY INSTRUCTION

Sec. 1. COMPENSATORY SERVICES IN GENERAL

Students at all grade levels who have been identified as being at-risk of dropping out of school, who are not performing at grade level, or who did not perform satisfactorily on a state-mandated assessment will be provided accelerated and/or compensatory educational services in accordance with applicable law and based on needs assessment. Principals are responsible for ensuring that each identified student receives such appropriate accelerated and/or compensatory services.

The services provided to each identified student shall be consistent with Richard Milburn Academy's goals and strategies for assisting students in need of academic assistance, and shall be reviewed for effectiveness at the close of each grading period.

Parents shall be encouraged to participate in the planning of educational services for their child and shall be kept informed regarding the child's progress toward educational goals. Parents of students who are not successful in meeting requirements for promotion shall be informed of any available options, such as an extended year program or summer school.

Sec. 2. COMPENSATORY EDUCATION ALLOTMENT

On a schedule adopted by the Commissioner of Education ("Commissioner"), Richard Milburn Academy shall report to the Texas Education Agency ("TEA") the census block group in which each student enrolled in Richard Milburn Academy who is educationally disadvantaged resides. *Education Code 48.104(i)*.

a) *Use*

At least 55% of Richard Milburn Academy's compensatory education funds must be used to:

1. Fund supplemental programs and services designed to eliminate any disparity in performance on assessment instruments administered under Education Code Chapter 39, Subchapter B or disparity in the rates of high school completion between:
   a. Students who are educationally disadvantaged and students who are not educationally disadvantaged; and
   b. Students at risk of dropping out of school and all other students; or
2. Support a program eligible under Title I of the ESEA and its subsequent amendments, and by federal regulations implementing the ESEA.

Education Code 48.104(i), (k).

Sec. 3. DROPOUT PREVENTION STRATEGIES

Upon request from the Commissioner, Richard Milburn Academy shall submit a plan describing the manner in which Richard Milburn Academy intends to use its compensatory education allotment for developing and implementing research-based strategies for dropout prevention.

Richard Milburn Academy shall submit its plan no later than December 1 of each school year preceding the school year in which Richard Milburn Academy will receive the compensatory education allotment to which the plan applies.

Richard Milburn Academy may not spend or obligate more than 25% of its compensatory education or high school allotment without approval by the Commissioner.

A plan required by the Commissioner shall:

1. Design a dropout recovery plan that includes career and technology education courses or technology applications courses that lead to industry or career certification;
2. Integrate into the dropout recovery plan research-based strategies to assist students in becoming able academically to pursue postsecondary education, including:
    a. High-quality, college readiness instruction with strong academic and social supports;
    b. Secondary to postsecondary bridging that builds college readiness skills, provides a plan for college completion, and ensures transition counseling; and
    c. Information concerning appropriate supports available in the first year of postsecondary enrollment to ensure postsecondary persistence and success, to the extent funds are available for that purpose; and
3. Plan to offer advanced academic and transition opportunities, including dual credit courses and college preparatory courses, such as advanced placement courses.

Richard Milburn Academy may enter into a partnership with a public junior college in order to fulfill a plan, in accordance with Education Code 29.402.

Any program designed to fulfill a plan must comply with the requirements of Education Code 29.081(e) and (f).

Education Code 29.918.

Sec. 4. INTENSIVE PROGRAM OF INSTRUCTION

a) State Assessments

Richard Milburn Academy shall offer an intensive program of instruction to a student who does not perform satisfactorily on a state assessment instrument or is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade nine, as determined by Richard Milburn Academy. The program shall be designed to:

1. Enable the student to:
    a. To the extent practicable, perform at the student's grade level at the conclusion of the next regular school term; or
    b. Attain a standard of annual growth specified by Richard Milburn Academy and reported by Richard Milburn Academy to TEA; and
2. If applicable, carry out the purposes of Education Code 28.0211.

b) Students Receiving Special Education Services

For a student in a special education program who does not perform satisfactorily on a state assessment instrument, the student's admission, review, and dismissal committee shall design the program to:

1. Enable the student to attain a standard of annual growth on the basis of the student's individualized education program; and
2. If applicable, carry out the purposes of Education Code 28.0211.

c) Graduation Requirements

Richard Milburn Academy shall use funds appropriated by the legislature for an intensive program of instruction to plan and implement intensive instruction and other activities aimed at helping a student satisfy state and local high school graduation requirements.

d) Final Determination

Richard Milburn Academy's determination of the appropriateness of an intensive program of instruction for a student is final.

Education Code 28.0213.

PG.-2.108 CREDIT BY EXAMINATION

Sec. 1. CREDIT BY EXAMINATION (WITH PRIOR INSTRUCTION)

The Principal (or a student's attendance committee, as applicable) has authority to offer a student in any of grades 9–12 credit for an academic subject in which the student had some prior instruction if the student scores 70% on a criterion-referenced test approved by the Board for the particular course. In order to obtain credit by examination with prior instruction, a student in any of grades 9–12 must also satisfy the following local requirements:

1. A student who has previously taken a course – but did not receive credit for it – may, in circumstances determined by the Principal and Response to Intervention (RTI) committee, be permitted to earn credit by passing an exam on the essential knowledge and skills defined for that course or subject. Prior instruction may include, for example, incomplete coursework due to a failed course or excessive absences, homeschooling, or coursework by a student transferring from a non-accredited school. The student must score at least 70 on the exam to receive credit for the course or subject.

Any criterion-referenced test approved by the Board shall assess the student's mastery of the essential knowledge and skills and shall be administered according to established Richard Milburn Academy procedures.

Prior to offering a student an opportunity to demonstrate mastery or earn credit by this method, an appropriate Richard Milburn Academy employee shall review the student's records to determine whether the student has had prior instruction in the subject or course.

19 TAC 74.24(c)(12).

Sec. 2. CREDIT BY EXAMINATION (WITHOUT PRIOR INSTRUCTION)

With Board approval, Richard Milburn Academy shall develop or purchase examinations for acceleration that thoroughly test the essential knowledge and skills for credit for secondary school academic subjects.

19 TAC 74.24(b)(1).

a) Grade 9 through Grade 12

Richard Milburn Academy shall give a student in grades 9-12 for an academic subject in which he or she has not had prior instruction if the student scores:

1. A three or higher on a College Board advanced placement examination that has been approved by the Board for the applicable course;
2. A scaled score of 50 or higher on an examination administered through the College-Level Examination Program and approved by the Board for the applicable course; or
3. 80% on any other criterion-referenced test approved by the Board for the applicable course.

19 TAC 74.24(c)(8).

For each high school course, the Board shall approve at least four examinations that shall include College Board advanced placement examinations and examinations administered through the College-Level Examinations Program. The approved examinations may include those developed by:

1. Texas Tech University;
2. The University of Texas at Austin;
3. Richard Milburn Academy; or
4. Another entity if the assessment meets all requirements under 19 TAC 74.26(c)(2).

19 TAC 74.24(c)(1)-(2).

A student may not attempt to earn credit by examination for a specific high school course more than two times. If a student fails to earn credit by examination for a specific high school course before the beginning of the school year in which the student would ordinarily be required to
enroll in that course in accordance with Richard Milburn Academy's prescribed course sequence, the student must satisfactorily complete the course to receive credit for the course. *19 TAC 74.24(c)(9)-(10)*.

b) Fees

Richard Milburn Academy shall not charge for a Board-approved examination for acceleration for credit for secondary school academic subjects. If a parent requests an alternative examination, Richard Milburn Academy may administer and recognize results of a test purchased by the parent or student from Texas Tech University or the University of Texas at Austin. *19 TAC 74.24(a)(3)*.

PG.-2.109 DUAL CREDIT

Sec. 1. COLLEGE CREDIT PROGRAM

a) Program Requirements

If allowed by its open-enrollment charter, Richard Milburn Academy may implement a program under which students may earn the equivalent of at least 12 semester credit hours of college credit in high school. The college credit may be earned through:

1. International baccalaureate, advanced placement, or dual credit courses;
2. Articulated postsecondary courses provided for local credit or articulated postsecondary advanced technical credit courses provided for state credit; or
3. Any combination of the courses in items 1 and 2.

The program may provide a student the opportunity to earn credit for a course or activity, including apprenticeship or training hours:

1. That satisfies a requirement necessary to obtain an industry-recognized credential or certificate or an associate degree, and is approved by the Texas Higher Education Coordinating Board ("THECB"); and
2. For which a student may earn credit concurrently toward both the student's high school diploma and postsecondary academic requirements.

A dual credit course must be:

1. In the core curriculum of the public institution of higher education providing college credit;
2. A career and technical education course; or
3. A foreign language course.

These requirements do not apply to a dual credit course offered as part of the early college education program established under Education Code 29.908 or any other early college program that assists a student in earning a certificate or an associate degree while in high school.

Richard Milburn Academy is not required to pay a student's tuition or other associated costs for taking a course under this policy.

Education Code 28.009.

b) Eligible Course Requirements

To be eligible for high school credit, a dual credit course must be provided by an institution of higher education that is accredited by any of the following regional accrediting associations:

1. Southern Association of Colleges and Schools;
2. Middle States Association of Colleges and Schools;
3. New England Association of Schools and Colleges;
4. North Central Association of Colleges and Schools;
5. Western Association of Schools and Colleges; or
6. Northwest Association of Schools and Colleges.

Additionally, the course shall provide advanced academic instruction beyond or in greater depth than the essential knowledge and skills for the equivalent high school course.

19 TAC 74.25.

Sec. 2. STUDENT ELIGIBILITY FOR DUAL CREDIT COURSES

A high school student is eligible to enroll in academic dual credit courses and workforce education dual credit courses as permitted by 19 Administrative Code 4.85(b). To be eligible for enrollment in a dual credit course offered by a public college, students must meet all the college's regular prerequisite requirements designated for that course (e.g., minimum score on a specified placement test, minimum grade in a specified previous course, etc.). An institution may impose additional requirements for enrollment in courses for dual credit. *19 TAC 4.85(b)*.

a) Partnership Programs

An eligible student may enroll in a partnership program with a Texas college or university in accordance with an agreement between Richard Milburn Academy and the college or university. Richard Milburn Academy shall award credit toward high school graduation in accordance with the agreement between Richard Milburn Academy and the college or university.

b) Other College-Level Courses

Richard Milburn Academy may award a student credit for completing a college-level course at an accredited college or university that is not in a partnership program with Richard Milburn Academy. Award of credit shall be based on administrator approval in accordance with guidelines established by the Superintendent or designee.

c) Texas Virtual School Network

According to guidelines established by the Texas Virtual School Network (TxVSN) and the course provider, Richard Milburn Academy may enroll a student in college-level courses through the TxVSN. When the student successfully completes a course, credit shall be applied toward graduation requirements.

Sec. 3. ATTENDANCE ACCOUNTING

The time that a student attends a dual credit course, including a course provided under the college credit program, shall be counted as part of the minimum instructional hours required for astudent to be considered a full-time student in average daily attendance. *Education Code 48.005(g)*.

Additionally, the Commissioner of Education may approve instructional programs provided off campus by an entity other than Richard Milburn Academy in which participation by a student may be counted for purposes of determining average daily attendance. *Education Code 48.007(a)*.

Richard Milburn Academy may adopt a policy that allows a student to participate in an off- campus instructional program. The program must be provided only by an institution of higher education that is accredited by one of the regional accrediting associations specified in 19 TAC 74.25.

To be eligible, a student must:

1. Be in grade 11 or 12;

2. Have demonstrated college readiness as outlined in the requirements for participation in dual credit programs in the Student Attendance Accounting Handbook;
3. Meet any eligibility requirements adopted by the institution of higher education; and
4. Have the approval of the Principal or other school official designated by Richard Milburn Academy.

The off-campus program must comply with rules adopted by the THECB in the Texas Administrative Code, Title 19, Part 1, with respect to teacher qualifications.

19 TAC 129.1031.

Sec. 4. ANNUAL REPORTS

Richard Milburn Academy shall annually report to the TEA:

1. The number of Richard Milburn Academy students, including career and technical students, who have participated in the program and earned college credit; and
2. The cumulative number of courses in which participating students have enrolled and college credit hours the students have earned.

Education Code 28.009(c).

PG.-2.110 GIFTED AND TALENTED PROGRAM

Sec. 1. GIFTED AND TALENTED PROGRAM

If allowed by the Richard Milburn Academy/Texas, Inc. Charter, the Superintendent shall develop a gifted and talented program that is approved by the Board and disseminated to parents. The program shall provide an array of learning opportunities for gifted/talented students in grade 9 through grade 12 and shall inform parents of the opportunities. Options shall include:

1. Instructional and organizational patterns that enable identified students to work together as a group, to work with other students, and to work independently;
2. A continuum of learning experiences that leads to the development of advanced-level products and performances;
3. In-school and, when possible, out-of-school options relevant to the student's area of strength that are available during the entire school year; and
4. Opportunities to accelerate in areas of strength.

19 TAC 89.1, 89.3.

For purposes of this policy, "gifted and talented student" means a child or youth who performs at or shows the potential for performing at a remarkably high level of accomplishment when compared to others of the same age, experience, or environment and who:

1. Exhibits high performance capability in an intellectual, creative, or artistic area;
2. Possesses an unusual capacity for leadership; or
3. Excels in a specific academic field.

Education Code 29.121.

Sec. 2. PROGRAM REQUIREMENTS

The program developed by the Superintendent shall incorporate the following requirements:

a) Nomination

Students may be nominated or referred for the gifted and talented program at any time by teachers, counselors, parents, or other interested persons.

b) Conferences

Conferences shall be held with nominated students and their parent(s), if appropriate, to determine if the students are interested in the program.

c) Screening and Identification Process

Assessment opportunities related to the screening and identification process for nominated and referred students shall be conducted at least once per school year.

d) Parental Consent

Written parental consent shall be obtained before any special testing or individual assessment is conducted as part of the screening and identification process. All student information collected during the screening and identification process shall be an educational record, subject to the protections of the Family Educational Rights and Privacy Act.

e) Identification

The program shall establish criteria to identify gifted and talented students. The criteria shall conform to the state definition of gifted and talented, and shall ensure the fair assessment of students with special needs, including the culturally different, the economically disadvantaged, and students with disabilities.

f) Assessments

Individual eligibility for the program shall be determined from data collected through both objective and subjective assessments measured against the criteria approved by the Board. Assessment tools may include, but are not limited to, achievement tests, creativity tests, behavioral checklists completed by teachers and parents, teacher nominations, student/parent conferences, and available student work product.

g) Selection

Each Richard Milburn Academy campus shall establish a selection committee to evaluate each nominated student according to the established criteria. The selection committee shall be composed of at least three educators who have received training in the nature and needs of gifted students. The selection committee shall select those students for whom the gifted and talented program is the most appropriate educational setting.

h) Selection Notification

Parents and students shall be notified in writing upon selection of the student for the gifted and talented program. Participation in any program or services provided for gifted students is voluntary. Richard Milburn Academy shall obtain written permission from the parent(s) before placing a student in the program.

i) Reassessment

Richard Milburn Academy shall reassess students to determine appropriate program placement when a student moves from the elementary level to the middle school level, and from the middle school level to high school.

j) Transfer Students

When a student identified as gifted by a previous Texas public school enrolls in Richard Milburn Academy, the student's records shall be reviewed by the appropriate selection committee to determine if placement in the Richard Milburn Academy gifted and talented program is appropriate. If the transferring student's records are limited or not available, or if the identification criteria for placement in the program for gifted and talented students at the previous school are not comparable to Richard Milburn Academy's, the standard procedures for identifying gifted and talented students shall be employed.

The selection committee shall make its determination within 30 days of the student's enrollment in Richard Milburn Academy, and shall base its decision on the transferred records, observation reports of Richard Milburn Academy teachers who instruct the student, and student and parent conferences.

k) Furloughs

Any student who is unable to maintain satisfactory performance or whose educational needs are not being met within the gifted and talented program may be placed on furlough. Richard Milburn Academy, a parent, or the student may initiate a furlough. The selection committee shall document the specific reasons for granting the furlough and the time period for which the furlough shall last. At the end of a furlough, the student may reenter the program, be placed on another furlough, or be exited from the program.

l) Program Exit

Student performance in the program shall be monitored. The selection committee may exit a student from the program at any time if the selection committee determines it is in the student's best interest and his or her educational needs. If a student or parent requests removal from the program, the selection committee shall meet with the parent and student before granting the request.

m) Appeals

A parent or student may appeal a final decision of the selection committee regarding selection for or removal from the gifted and talented program. Appeals shall first be made to the selection committee. Any subsequent appeals shall be made in accordance with the policy on Parent and Student Complaints, beginning at Level One.

Sec. 3. GIFTED AND TALENTED TEACHERS

The Superintendent shall ensure that:

1. Prior to assignment in the program, teachers who provide instruction and services that are part of the program for gifted/talented students have a minimum of 30 hours of professional learning that includes nature and needs of gifted/talented students, assessing student needs, and curriculum and instruction for gifted/talented students;
2. Teachers who provide instruction and services that are part of the gifted/talented program receive a minimum of six hours annually of professional learning in gifted/talented education; and
3. Administrators and counselors who have authority for program decisions have a minimum of six hours of professional learning that includes nature and needs of gifted/talented students and program options with an update after legislative sessions.

19 TAC 89.2.

Sec. 4. PROGRAM EVALUATION

The gifted and talented program shall be evaluated annually, and evaluation information shall be shared with Board members, administrators, teachers, counselors, students in the gifted and talented program, and the community. Evaluation information shall also be used to modify and update the program. *19 TAC 89.5(3)*.

Sec. 5. COMMUNITY AWARENESS

The Superintendent shall ensure that information about the Richard Milburn Academy gifted and talented program is available to parents and community members, and that they have an opportunity to develop an understanding of and support for the program.

PG.-2.111 STATE VIRTUAL SCHOOL NETWORK

Sec. 1. TEXAS VIRTUAL SCHOOL NETWORK

The Texas Virtual School Network ("TxVSN") is a state-led initiative for online learning authorized by Education Code Chapter 30A. The TxVSN is a partnership network administered by the Texas Education Agency ("TEA") in coordination with regional education service centers (ESCs), Texas public school districts and charter schools, institutions of higher education, and other eligible entities. *19 TAC 70.1001(4)*.

Sec. 2. PROHIBITION ON REQUIRED ENROLLMENT

Richard Milburn Academy shall not require a student to enroll in an electronic course. *Education Code 30A.107(d)*.

Sec. 3. STUDENT ELIGIBILITY FOR TXVSN COURSES

a) ***General Eligibility Requirements***

A student is eligible to enroll in a course provided through the TxVSN only if:

1. The student on September 1 of the school year:
    a. is younger than 21 years of age; or
    b. is younger than 26 years of age and entitled to the benefits of the Foundation School

Program under Education Code 42.003;

2. The student has not graduated from high school; and
3. The student:
    a. is otherwise eligible to enroll in a Texas public school; or
    b. The student is a dependent of a member of the United States military, was previously enrolled in high school in Texas, and no longer resides in Texas as a results of a military deployment or transfer.

19 TAC 70.1013(a).

b) Eligibility for Full-Time Enrollment

A student is eligible to enroll full-time in courses provided through the TxVSN only if:

1. The student was enrolled in a Texas public school in the preceding school year;
2. The student has been placed in substitute care in Texas, regardless of whether the student was enrolled in a Texas public school in the preceding school year; or
3. The student:
    a. Is a dependent of a member of the United States military;
    b. Was previously enrolled in high school in Texas; and
    c. No longer resides in Texas as a result of a military deployment or transfer

19 TAC 70.1013(b)

c) Limited Provisional Enrollment

If a student has not provided required evidence of eligibility to enroll, a TxVSN online school may:

1. Enroll a student provisionally for ten school days; and
2. Withdraw the student from the online school if the student does not provide the required evidence of eligibility within ten school days of the provisional enrollment.

Upon enrolling a student provisionally, the TxVSN online school shall notify the student and the student's parents or guardians that the student will be withdrawn if documentation is not provided within the required timeframe.

19 TAC 70.1013(c)-(d).

d) Enrolled Students

A student who is enrolled in Richard Milburn Academy as a full-time student may take one or more electronic courses through the TxVSN. *Education Code 30A.107(b)*.

e) Unenrolled Students

A student who resides in Texas but is not enrolled in Richard Milburn Academy as a full-time student may, subject to Education Code 30A.155, enroll in electronic courses through the TxVSN. The student:

1. May not in any semester enroll in more than two electronic courses offered through the TxVSN;
2. Is not considered to be a public school student;
3. Must obtain access to a course provided through the TxVSN through the school district or open-enrollment charter school attendance zone in which the student resides;
4. Is not entitled to enroll in a course offered by a school district or open-enrollment charter school other than an electronic course provided through the TxVSN; and
5. Is not entitled to any right, privilege, activities, or services available to a student enrolled in a public school, other than the right to receive the appropriate unit of credit for completing an electronic course.

Education Code 30A.107(c).

f) Compulsory Attendance

Students are not required to be in physical attendance while participating in a TxVSN course. Students are considered to have met attendance requirements for a course upon successful completion of a TxVSN course. A student who has successfully completed the grade level or course is eligible to receive any weighted funding for which the student is eligible. Richard Milburn Academy shall maintain documentation to support a student's successful completion to support verification of compulsory attendance. *19 TAC 70.1001(9), .1017*.

Sec. 4. STUDENT PARTICIPATION IN THE TXVSN

The Superintendent or designee shall establish procedures for students to enroll in courses provided by the TxVSN.

Enrollment in courses through the TxVSN shall not be subject to limitations Richard Milburn Academy may impose for other distance learning courses.

Sec. 5. NOTICE

At the time and in the manner that Richard Milburn Academy informs students and parents about courses that are offered in Richard Milburn Academy's traditional classroom setting, Richard Milburn Academy shall notify parents and students of the option to enroll in an electronic course offered through the TxVSN. *Education Code 26.0031(a)*.

Sec. 6. REQUESTS TO ENROLL

Except as provided below, Richard Milburn Academy may not deny the request of a parent of a full-time student to enroll the student in an electronic course offered through the TxVSN.

Richard Milburn Academy may deny a request to enroll a student in an electronic course if:

1. A student attempts to enroll in a course load that is inconsistent with the student's high school graduation plan or requirements for college admission or earning an industry certification;

2. The student requests permission to enroll in an electronic course at a time that is not consistent with the enrollment period established by the course provider; or
3. Richard Milburn Academy offers a substantially similarcourse.

The course provider shall make all reasonable efforts to accommodate the enrollment of a student in the course under special circumstances.

If a parent of a student requests permission to enroll the student in a TxVSN course, Richard Milburn Academy has discretion to select a course provider approved by TEA for the course in which the student will enroll based on factors including the informed choice report required by Education Code 30A.108(b). *Education Code 26.0031.*

a) Appeals

A parent may appeal to the Commissioner of Education (the "Commissioner") Richard Milburn Academy's decision to deny a request to enroll a student in an electronic course offered through the TxVSN. The Commissioner's decision is final and may not be appealed. *Education Code 26.0031*; *19 TAC 70.1008, .1035*.

b) Students with Disabilities

The determination of whether or not an electronic course will meet the needs of a student with a disability shall be made by the student's admission, review, and dismissal ("ARD") committee in a manner consistent with state and federal law, including the Individuals with Disabilities Education Act and Section 504, Rehabilitation Act of 1973. *Education Code 30A.007(b)*.

Sec. 7. STUDENT ASSESSMENT

All students enrolled in the TxVSN are required to take the statewide assessments as required in Education Code 39.023. The administration of the assessment instrument to the student enrolled in the electronic course must be supervised by a proctor.

Richard Milburn Academy shall report to the Commissioner through the Public Education Information Management System ("PEIMS") the results of assessment instruments administered to students enrolled in an electronic course offered through the TxVSN separately from the results of assessment instruments administered to other students.

Education Code 30A.110; *19 TAC 70.1023*.

Sec. 8. FEES

Richard Milburn Academy may charge a fee for enrollment in an electronic course provided through the TxVSN to a student who resides in Texas and:

1. Is enrolled in Richard Milburn Academy as a full-time student with a course load greater than that normally taken by students in the equivalent grade level in other public schools; or
2. Elects to enroll in a TxVSN course for which Richard Milburn Academy declines to pay the cost as authorized by Education Code 26.0031(c-1).

Richard Milburn Academy may charge a fee for enrollment in a TxVSN course during the

summer.

Richard Milburn Academy shall charge a fee for enrollment in an electronic course provided through the TxVSN to a student who resides in Texas and is not enrolled in a school district or open-enrollment charter school as a full-time student.

A TxVSN course cost may not exceed the lesser of the cost of providing the course or $400.

If Richard Milburn Academy is not the provider school, Richard Milburn Academy may charge a student enrolled in Richard Milburn Academy a nominal fee, not to exceed the amount specified by the Commissioner, if the student enrolls in an electronic course provided through the TxVSN that exceeds the course load normally taken by students in the equivalent grade level. *Education Code 30A.155.*

Richard Milburn Academy may decline to pay the course costs for a student who chooses to enroll in more than three year-long electronic courses, or the equivalent, during any school year. This does not limit the ability of the student to enroll in additional electronic courses offered through the TxVSN at the student's expense.

Richard Milburn Academy, if it is not the course provider, may charge a student enrolled in Richard Milburn Academy a nominal fee, not to exceed $50, if the student enrolls in a TxVSN course that exceeds the course load normally taken by students in the equivalent grade level.
Education Code 30A.155(a)–(c-1); *19 TAC 70.1025*.

Sec. 9. PROVISION OF COMPUTER EQUIPMENT AND INTERNET SERVICE

This policy does not:

1. Require Richard Milburn Academy to provide a student with home computer equipment or Internet access for a course provided through the TxVSN; or
2. Prohibit Richard Milburn Academy from providing a student with home computer equipment or Internet access for a course provided through the TxVSN.

Education Code 30A.003.

Sec. 10. APPLICABILITY

This policy does not affect the provision of a course to a student while the student is located on the physical premises of Richard Milburn Academy, unless Richard Milburn Academy chooses to participate in providing an electronic course or an electronic diagnostic assessment under Education Code Chapter 30A to a student who is located on the physical premises of Richard Milburn Academy.

This policy does not apply to a virtual course provided by Richard Milburn Academy only to students enrolled in Richard Milburn Academy if the course is not provided as part of the TxVSN. *Education Code 30A.004*.

Sec. 11. RICHARD MILBURN ACADEMY AS PROVIDER

Richard Milburn Academy is eligible to act as a course provider only if Richard Milburn Academy is rated acceptable under Education Code 39.054. Additionally, Richard Milburn Academy may serve as a course provider only:

1. To a student within its service area; or
2. To another student in the state:
    a. Through an agreement with the school district in which the student resides; or
    b. If the student receives educational services under the supervision of a juvenile probation department, the Texas Youth Commission, or the Texas Department of Criminal Justice, through an agreement with the applicable agency.

Education Code 30A.101(a).

Sec. 12. CONTRACTS WITH VIRTUAL SCHOOL SERVICE PROVIDERS

Each contract between Richard Milburn Academy and an administering authority (as that term is defined by Education Code 30A.001(1)) must:

1. Provide that the administering authority may cancel the contract without penalty if legislative authorization for Richard Milburn Academy through the TxVSN is revoked; and
2. Be submitted to the Commissioner.

A contract submitted under this provision is public information for purposes of Chapter 552, Government Code. *Education Code 30A.056*.

PG.-2.113 CONTRACTS WITH OUTSIDE AGENCIES

Sec. 1. STUDENTS WITH DISABILITIES

Richard Milburn Academy may contract with a public or private facility, institution, or agency inside or outside of Texas for the provision of services to students with disabilities. *Education Code 29.008(a)*.

PG-2.114 STUDENT HEALTH CURRICULUM

Sec. 1. DEFINITION

For purposes of this policy:

"Curriculum materials" includes the curriculum, teacher training materials, and any other materials used in providing instruction.

"Human sexuality instruction," "instruction in human sexuality," and "instruction relating to human sexuality" include instruction in reproductive health.

Education Code 28.004(p).

Sec. 2. CURRICULUM MATERIALS FOR HUMAN SEXUALITY INSTRUCTION

a) ***Course Material and Instruction Requirements***

Any course materials and instruction relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus or acquired immune deficiency syndrome shall be selected by the Board with the advice of the local School Health Advisory Council ("SHAC").

The course materials and instruction must:

1. Present abstinence from sexual activity as the preferred choice of behavior in relationship to all sexual activity for unmarried persons of school age;
2. Devote more attention to abstinence from sexual activity than to any other behavior;
3. Emphasize that abstinence from sexual activity, if used consistently and correctly, is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted diseases, infection with human immunodeficiency virus or acquired immune deficiency syndrome, and the emotional trauma associated with adolescent sexual activity;
4. Direct adolescents to a standard of behavior in which abstinence from sexual activity before marriage is the most effective way to prevent pregnancy, sexually transmitted diseases, and infection with human immunodeficiency virus or acquired immune deficiency syndrome; and
5. Teach contraception and condom use in terms of human use reality rates instead of theoretical laboratory rates, if instruction on contraception and condoms is included in curriculum content.

Education Code 28.004(e).

b) ***Adoption Requirements***

The Board shall adopt a resolution convening the SHAC for the purpose of making recommendations regarding.

The SHAC shall:

1. After the Board adopts the resolution described above, hold at least two public meetings on the curriculum materials before adopting recommendations; and
2. Provide its recommendations to the Board a public meeting.

Education Code 28.004(e-1)(1).

c) ***Board Action Following Receipt of the SHAC Recommendations***

The Board shall determine the specific content of Richard Milburn Academy's instruction in human sexuality. *Education Code 28.004(h).*

The Board, after receipt of the SHAC's recommendations, must take action on the adoption of the recommendations by a record vote at a public board. *Education Code 28.004 (e-1)(3).*

Before adopting curriculum materials for Richard Milburn Academy's human sexuality instruction, the Board shall ensure that the curriculum materials are:

1. Based on the advice of the SHAC;
2. Suitable for the subject and grade level for which the curriculum materials are intended; and
3. Reviewed by academic experts in the subject and grade level for which the curriculum materials are intended.

Education Code 28.004(e-3).

d) *Additional Duties Relating to the Adoption of Curriculum and Materials for Human Sexuality Instruction*

1) Written Notice to Parents Required Annually

Before each school year, Richard Milburn Academy shall provide written notice to a parent of each student enrolled of the Board's decision regarding whether Richard Milburn Academy will provide human sexuality instruction to its students. If instruction will be provided, the notice must include:

1. a statement informing the parent of the human sexuality instruction requirements under state law;
2. a detailed description of the content of Richard Milburn Academy's human sexuality instruction and a general schedule on which the instruction will be provided;
3. a statement of the parent's right to:
    a. at the parent's discretion, review or purchase a copy of curriculum materials;
    b. remove the student from any part of school's human sexuality instruction without subjecting the student to any disciplinary action, academic penalty, or other sanction imposed by Richard Milburn Academy or the student's campus; and
    c. use Richard Milburn Academy grievance procedure concerning a complaint of a violation;
4. a statement that any curriculum materials in the public domain used for Richard Milburn Academy's human sexuality instruction must be posted on the school's Internet website, if the school has an Internet website, and the Internet website address at which the curriculum materials are located; and
5. information describing the opportunities for parental involvement in the development of the curriculum to be used in human sexuality instruction, including information regarding the SHAC.

Education Code 28.004(i).

2) Public Availability

Curriculum materials proposed to be adopted for Richard Milburn Academy's human sexuality instruction must be made publicly available by one of the following methods:

1. For curriculum materials in the public domain:

a. providing a copy of the curriculum materials by mail or e-mail to a parent of a student enrolled on the parent's request; and

b. posting the curriculum materials on the school's Internet website, if the school has an Internet website.

2. For copyrighted curriculum materials, allowing a parent of a student enrolled in Richard Milburn Academy to:

   a. review the curriculum materials at the student's campus at any time during regular business hours;

   b. purchase a copy of the curriculum materials from the publisher as provided by the school's purchase agreement for the curriculum materials; or

   c. review the curriculum materials online through a secure electronic account in a manner that prevents the curriculum materials from being copied and that otherwise complies with copyright law.

3. If Richard Milburn Academy purchases from a publisher copyrighted curriculum materials for use in the school's human sexuality instruction, Richard Milburn Academy shall ensure that the purchase agreement provides for a means by which a parent of a student enrolled in the school may purchase a copy of the curriculum materials from the publisher at a price that does not exceed the price per unit paid by Richard Milburn Academy for the curriculum materials.

Education Code 28.004(e-2),(j), (j-1).

3) No Condom Distribution

Richard Milburn Academy may not distribute condoms in connection with instruction relating to human sexuality. *Education Code 28.004(f)*.

4) Separate Instruction

If Richard Milburn Academy provides human sexuality instruction, students may be separated according to sex for instructional purposes. *Education Code 28.004(g).*

Sec. 3. CURRICULUM MATERIALS FOR ISTRUCTION RELATING TO THE PREVENTION OF CHILD ABUSE, FAMILY, VIOLENCE, DATING VIOLENCE, AND SEX TRAFFICKING.

Course materials relating to the prevention of child abuse, family violence, dating violence, and sex trafficking shall be selected by the Board with the advice of the SHAC. *Education Code 28.004(q)*.

a) Board Resolution to Convene the SHAC for the Purpose of Making Recommendations Regarding Curriculum Materials

The Board shall adopt a resolution convening the SHAC for the purpose of making recommendations regarding curriculum materials for the prevention of child abuse, family violence, dating violence and sex trafficking.

The Board resolution shall direct the SHAC to:

1. After the Board's adoption of the resolution, hold at least two public meetings on the curriculum materials before adopting recommendations for the Board; and
2. provide its recommendations to the Board at a public meeting.

Education Code 28.004 (q-1)(1)-(2).

b) Board Action Following Receipt of the SHAC Recommendations

The Board shall determine the specific content of Richard Milburn Academy's instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking in accordance with the essential knowledge and skills addressing these topics developed by the State Board of Education.in human sexuality. *Education Code 28.004(q-4).*

After receipt of the SHAC's recommendations, the Board shall take action on the adoption of the recommendations by a record vote at a public meeting. *Education Code 28.004(q-1)(3).*

Before adopting curriculum materials for Richard Milburn Academy's instruction on the prevention of child abuse, family violence, dating violence, and sex trafficking, the Board shall ensure that the curriculum materials are:

1. based on the advice of the SHAC;
2. suitable for the subject and grade level for which the curriculum materials are intended; and
3. reviewed by academic experts in the subject and grade level for which the curriculum materials are intended.

Education Code 28.004(q-3).

c) Additional Duties Relating to the Adoption of Curriculum and Materials for Human Sexuality Instruction

1) <u>Annual Written Notice to Parents</u>

Before each school year, Richard Milburn Academy shall provide written notice to a parent of each student enrolled of the Board's decision regarding whether the school will provide instruction to its students relating to the prevention of child abuse, family violence, dating violence, and sex trafficking.

If instruction will be provided, the notice must include:

1. A statement informing the parent of the requirements under state law regarding instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking;
2. A detailed description of the content of Richard Milburn Academy's instruction relating the

prevention of child abuse, family violence, dating violence, and sex trafficking;

3. A statement of the parent's right to:
    a. At the parent's discretion, review or purchase a copy of curriculum materials;
    b. Remove the student from any part of school's instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking, without subjecting the student to any disciplinary action, academic penalty, or other sanction imposed by Richard Milburn Academy or the student's campus; and
    c. Use the school's grievance procedure concerning a complaint of a violation;
4. A statement that any curriculum materials in the public domain used for Richard Milburn Academy's instruction in the prevention of child abuse, family violence, dating violence, and sex trafficking must be posted on the school's Internet website, if the school has an Internet website, and the Internet website address at which the curriculum materials are located; and
5. Information describing the opportunities for parental involvement in the development of the curriculum to be used in instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking, including information regarding the SHAC.

Education Code 28.004(q-5).

2) Prior Written Consent from Parents

Before a student may be provided with instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking, Richard Milburn Academy must obtain the written consent of the student's parent. A request for written consent from the parent:

1. May not be included with any other notification or request for written consent provided to the parent, other than parent notice as described above, and
2. Must be provided to the parent not later than the 14th day before the date on which the instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking begins.

Education Code 28.004(q-6).

3) Public Availability

Curriculum materials proposed to be adopted for the school's instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking must be made publicly available by one of the following methods:

1. For curriculum materials in the public domain:
    a. providing a copy of the curriculum materials by mail or e-mail to a parent of a student enrolled on the parent's request; and
    b. posting the curriculum materials on the school's Internet website, if the school has an Internet website.
2. For copyrighted curriculum materials, allowing a parent of a student enrolled in the school to:
    a. review the curriculum materials at the student's campus at any time during regular business

hours;

b. purchase a copy of the curriculum materials from the publisher as provided by the school's purchase agreement for the curriculum materials;

c. review the curriculum materials online through a secure electronic account in a manner that prevents the curriculum materials from being copied and that otherwise complies with copyright law.

3. If Richard Milburn Academy purchases from a publisher copyrighted curriculum materials for use in the school's instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking, Richard Milburn Academy shall ensure that the purchase agreement provides for a means by which a parent of a student enrolled in the school may purchase a copy of the curriculum materials from the publisher at a price that does not exceed the price per unit paid by Richard Milburn Academy for the curriculum materials.

Education Code 28.004(j), (j-2), (q-2).

Sec. 4. INSTRUCTION REGARDING SEXUAL ORITENTAION AND GENDER IDENTITY

Richard Milburn Academy may not provide or allow a third party to provide instruction, guidance, activities, or programming regarding sexual orientation or gender identity to students enrolled in prekindergarten through 12th grade. *Education Code 28.0043(a)*.

This section may not be construed to:

1. Limit a student's ability to engage in speech or expressive conduct protected by the First Amendment to the United States Constitution or by Section 8, Article I, Texas Constitution, that does not result in material disruption to school activities;
2. Limit the ability of a person who is authorized by Richard Milburn Academy to provide physical or mental health-related services to provide the services to a student, subject to any required parental consent; or
3. Prohibit an organization whose membership is restricted to one sex and whose mission does not advance a political or social agenda from meeting on a school campus.

Education Code 28.0043(b).

PG.-2.201 ACADEMIC TESTING PROGRAMS

Sec. 1. LOCAL TESTING

In addition to the state-administered assessment instruments, Richard Milburn Academy may adopt and administer criterion-referenced or norm-referenced assessment instruments, or both, at any grade level. Any such locally adopted norm-referenced assessment instrument must be economical, nationally recognized, and state-approved.

For purposes of this Policy, "assessment instrument" means a Richard Milburn Academy- commissioned achievement test, either nationally normed or criterion-referenced, that is group administered and reported

publicly (such as to the Board) in the aggregate.

A company or organization scoring an assessment instrument shall send test results to Richard Milburn Academy for verification. Richard Milburn Academy shall have 90 days to verify the accuracy of test data and report the results to the Board.

Richard Milburn Academy shall follow procedures for test security and confidentiality set forth in 19 TAC Chapter 101, Subchapter C. *Education Code 39.026, .032*; *19 TAC 101.101*.

a) Limits on Local Testing

In a subject area for which a state assessment is administered, Richard Milburn Academy may not administer locally required assessments designed to prepare students for state-administered assessments to any student on more than 10% of the instructional days in any school year. A campus-level planning and decision-making committee may limit the administration of locally required assessments to 10% or a lower percentage of the instructional days in any school year. This prohibition does not apply to the administration of college preparation assessments, advanced placement tests, international baccalaureate examinations, or state assessments. *Education Code 39.0262*.

Sec. 2. BENCHMARK ASSESSMENT INSTRUMENTS

"Benchmark assessment instrument" means a Richard Milburn Academy-required assessment instrument designed to prepare students for a corresponding state-administered assessment instrument. An assessment instrument designed to prepare students for state-administered assessment instruments is one that:

1. Evaluates students' potential performance relative to the state's blueprint in whole for a state-administered assessment; or
2. Is primarily focused on test-taking techniques.

It does not include an assessment designed to evaluate students' mastery of parts of the Texas Essential Knowledge and Skills or the efficacy of instructional practice.

Richard Milburn Academy may not administer to any student more than two benchmark assessment instruments to prepare the student for a corresponding state-administered assessment instrument.

This prohibition does not apply to the administration of a college preparation assessment instrument, including the PSAT, the ACT-Plan, the SAT, or the ACT, an advanced placement test, an international baccalaureate examination, or an independent classroom examination designed or adopted and administered by a classroom teacher.

A parent of or person standing in parental relation to a student who has special needs, as determined in accordance with Commissioner of Education rule, may request administration to the student of additional benchmark assessment instruments.

Education Code 39.0263; *19 TAC 101.6003*.

Sec. 3. COLLEGE PREPARATION ASSESSMENTS

Each school year, and at state cost, Richard Milburn Academy may administer an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument:

1. To students in the spring of the eighth grade for the purpose of diagnosing the academic strengths and deficiencies of students before entrance into high school; and
2. To students in the tenth grade for the purpose of measuring a student's progress toward readiness for college and the workplace.

The provisions of Education Code 39.0261(a)(1) and (a)(2), with respect to the administration of college preparation assessment instruments at state cost, apply only if the legislature appropriates funds for those purposes.

Education Code 39.0261(a)(1)-(a)(2), (f).

High school students, in the spring of the eleventh grade or during the twelfth grade, may select and take once, at state cost:

1. One of the valid, reliable, and nationally norm-referenced assessment instruments used by colleges and universities as part of their undergraduate admissions processes; or
2. The assessment instrument designated by the Texas Higher Education Coordinating Board under Education Code 51.334.

A high school student is not prohibited from taking a test more than once, at his or her own expense.
Education Code 39.0261(a)(3), (e).

Sec. 4. ARMED SERVICES VOCATIONAL APTITUDE BATTERY TEST

Each school year, Richard Milburn Academy shall provide students in grades 10 through 12 an opportunity to take the Armed Services Vocational Aptitude Battery test ("ASVAB") test and consult with a military recruiter. The test must be scheduled:

1. During normal school hours; and
2. At a time that limits conflicts with extracurricular activities, to optimize student participation.

Richard Milburn Academy shall provide each student in grades 10 through 12 and the student's parent or person standing in parental relation to the student a notice of the date, time, and location of the scheduled administration of the ASVAB test.

Richard Milburn Academy may elect not to provide the ASVAB test only if it provides an alternative test that:

1. Assesses a student's aptitude for success in a career field other than a career field that requires postsecondary education;
2. Is free to administer;
3. Requires minimal training and support of Richard Milburn Academy faculty and staff to administer the test; and
4. Provides the student with a professional interpretation of the test results that allows the student to explore occupations that are consistent with the student's interests and skills and develop strategies to attain the student's career goals.

Education Code 29.9015.

PG.-2.202 READING ASSESSMENTS

Sec. 1. SELECTION OF READING INSTRUMENTS

The Commissioner of Education ("Commissioner") shall adopt a list of reading instruments that Richard Milburn Academy may use to diagnose student reading development and comprehension. Richard Milburn Academy may adopt a list of reading instruments for use in addition to the reading instruments on the Commissioner's list. Each reading instrument adopted must be based on scientific research concerning reading skills development and reading comprehension. A list of adopted reading instruments must provide for diagnosing the reading development and comprehension of students participating in a bilingual education or special language program. *Education Code 28.006(b)*.

Sec. 2. ACCELERATED READING INSTRUCTION PROGRAM

Richard Milburn Academy shall implement an accelerated reading instruction program that provides reading instruction addressing reading deficiencies to students identified as at risk for dyslexia or other reading difficulties, and shall determine the form, content, and timing of that program. The ARD committee of a student who participates in Richard Milburn Academy's special education program and who does not perform satisfactorily on a reading instrument shall determine the manner in which the student will participate in an accelerated reading instruction program.
Education Code 28.006(g).

PG.-2.203 STATE ASSESSMENTS

Sec. 1. STUDENT TESTING REQUIREMENTS

All Richard Milburn Academy students receiving instruction in the essential knowledge and skills shall take the appropriate criterion-referenced assessments, as required by Education Code, Chapter 39, Subchapter B. *19 TAC 101.5(a)*.

Unless exempted by applicable law, a student may not receive a high school diploma until the student has performed satisfactorily on applicable end-of-course ("EOC") assessment instruments. *Education Code 39.025(a); 19 TAC 101.4001*.

Sec. 2. EMERGENT BILINGUAL STUDENTS

In grades 9–12, emergent bilingual students shall participate in the state assessment in accordance with the Commissioner of Education's ("Commissioner") rules at 19 TAC Chapter 101, Subchapter AA. *Education Code 39.023(l), (m)*.

Sec. 3. SPECIAL EDUCATION

The student's admission, review and dismissal ("ARD") committee shall determine whether any allowable modification is necessary in administering to the student a required EOC assessment instrument and whether the student is required to achieve satisfactory performance on an EOC assessment instrument to receive a high school diploma. *Education Code 39.025(a-4)*.

Sec. 4. MILITARY DEPENDENTS

If a student is a military dependent, Richard Milburn Academy shall accept:

1. Exit or EOC exams required for graduation from the sending state;

2. National norm-referenced achievement tests; or
3. Alternative testing, in lieu of testing requirements for graduation in the receiving state.

In the event the above alternatives cannot be accommodated for a military dependent transferring in his or her senior year, then the provisions of Education Code 162.002 art. VII, Section C shall apply.

a) **Substitute Passing Standard**

A substitute passing standard adopted by the Commissioner may be applied only for a qualified military dependent who enrolls in a Texas public school in this state for the first time after completing the ninth grade or who reenrolls in a Texas public school at or above the tenth grade
level after an absence of at least two years from Texas public schools. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard.
Education Code 162.002 art. VII, §§ B–C.

Sec. 5. ADMINISTRATION OF ASSESSMENTS

Richard Milburn Academy shall follow the test administration procedures established by the Texas Education Agency ("TEA") in the applicable test administration materials. The Superintendent shall be responsible for administering tests. *19 TAC 101.25, 101.27*.

Each assessment instrument required under Education Code 39.023(a), (c), or (l) must be administered electronically, unless otherwise provided by Commissioner Rule. *Education Code 39.0234(a)*.

a) Assessment Schedule

The Commissioner shall specify the schedule for testing and field testing. Participation in University Interscholastic League (UIL) area, regional, or state competitions is prohibited on any days on which testing is scheduled between Monday and Thursday of the school week in which the primary administration of assessment instruments occurs. The Commissioner may provide alternate dates for the administration of tests required for a high school diploma to students who are migratory children and who are out of the state. *19 TAC 101.25*.

b) Alternate Test Dates

Richard Milburn Academy or a campus may request from the Commissioner an alternate test date. Alternate test dates will only be allowed if Richard Milburn Academy or campus is closed on the day on which testing is scheduled or if there is an exceptional circumstance, defined below, that may affect Richard Milburn Academy's or campus' ability to administer an assessment or the students' performance on an assessment. "Exceptional circumstances" include:

1. Inclement weather or natural disasters that would cause Richard Milburn Academy or campus to be closed or that would cause a small percentage of students to be in attendance on the day testing is scheduled;
2. Health epidemics that result in a large number of students being absent on the day of testing;
3. Death of a student or school official that may impact student performance; and
4. Sudden emergencies that occur on the day of testing or shortly before testing that may inhibit

students from completing the assessments, such as a fire on campus, a bomb threat, an extended power outage, or a water main break.

If an alternate test date for primary test administration is approved, the Commissioner may prohibit Richard Milburn Academy or campus from participating in UIL competition on the new test date if that is determined to be in the best interest of Richard Milburn Academy, campus, and students.

19 TAC 101.5003.

c) Assessment on Religious Holy Days

For purposes of this subsection, "religious holy day or period of observance" means a holy day or a period of holy days observed by a religion whose places of worship would be exempt from property taxation under Tax Code 11.20.

The Board may consider the dates of religious holy days or periods of observance likely to be observed by enrolled students during the period set by the State Board of Education for the administration of state assessment instruments in establishing:

1. Richard Milburn Academy's calendar for that school year; and
2. The instructional days within that period on which students are administered the required assessment instruments, provided that the Board may not exclude more than two instructional days from that period based solely on the occurrence of a single religious holy day or period of observance.

In establishing a school calendar, the Board shall provide for alternative dates for the administration of state assessments who is absent from school to observe a religious holy day or period of observance on the date an assessment instrument is administered.

Education Code 39.0238.

d) Request for Paper Administration

Subject to the limitations in this subsection, Richard Milburn Academy may administer an assessment instrument required under Education Code 39.023(a), (c), or (*l*) in paper format to any student whose parent, guardian, or teacher in the applicable subject area requests the assessment instrument be administered to the student in paper format. *Education Code 39.02342(a)*.

A request for the administration of an assessment instrument in paper format must be submitted to the school:

1. For a fall administration of an assessment instrument, not later than September 15 of the school year in which the assessment instrument will be administered; and
2. For a spring administration of an assessment, not later than December 1 of the school year in which the assessment instrument will be administered.

Education Code 39.02342(b).

The number of students enrolled at Richard Milburn Academy who are administered an assessment

instrument in paper format for any single administration may not exceed three percent of the number of students enrolled in Richard Milburn Academy. On receipt of more requests for administration of an assessment instrument than the maximum number permitted under this subsection, Richard Milburn Academy shall accept the requests in the order received until the maximum number is reached. This limitation does not apply a student whose admission, review, and dismissal committee determines that the administration of an assessment instrument in paper format is a necessary modification for the student.

Education Code 39.02342(c).

Sec. 6. NOTICE TO STUDENTS AND PARENTS

The Superintendent shall be responsible for providing written notice to each student and the student's parent or guardian of the testing requirements for graduation and the dates, times, and locations of testing. Notice of testing requirements shall be provided no later than the beginning of the student's seventh-grade year. The Superintendent shall also provide such notice for students in grades 9–12 who are new to Richard Milburn Academy. Notice of the dates, times, and locations of testing shall be provided to each student who will take the tests and to out-of-school individuals.

19 TAC 101.3012(a).

Sec. 7. END-OF-COURSE ASSESSMENTS

Students in grade 9 and above who are enrolled in a course for which an EOC assessment exists as required by Education Code 39.023(c) shall take the appropriate assessment. *19 TAC 101.3021(a)*.

a) **Students Enrolled Below High School Level**

A student in grade 8 or lower who takes a high school course for credit is required to take the applicable EOC assessment. The EOC assessment result shall be applied toward the student's assessment graduation requirements, as specified in 19 TAC 101.3022. *19 TAC 101.3021(d)*.

b) **Assessment Requirements for Graduation**

A student must meet satisfactory performance on an EOC assessment listed in Education Code 39.023(c) only for a course in which the student is enrolled and for which an EOC assessment instrument is administered in order to be eligible to receive a Texas diploma.

i. Exceptions: English I or English II

A student who was administered separate reading and writing EOC assessments under Education Code 39.023(c), for the English I or English II course has met that course's assessment graduation requirement if the student has:

1. Achieved satisfactory performance on either the reading or writing EOC assessment for that course;
2. Met at least the minimum score on the other EOC assessment for that course; and
3. Achieved an overall scale score of 3750 or greater when the scale scores for reading and writing are combined for that course.

Exceptions related to English I also apply to emergent bilingual student learners who meet the criteria in 19 TAC 101.1007.

ii. Exceptions: Credits Earned Prior to Enrollment

If a student earned high school credit for a course with an EOC assessment prior to enrollment in a Texas public school and the credit has been accepted by a Texas public school, or a student completed a course for Texas high school credit in a course with an EOC assessment prior to the 2011–2012 spring administration, the student is not required to take the corresponding EOC assessment.

19 TAC 101.3021(e), .3022.

***c)* Substitute Assessments**

A student may use certain assessments as substitute assessments in place of an EOC assessment, to meet the student's assessment graduation requirements in accordance with the Commissioner's chart at 19 TAC 101.4002(b). An approved substitute assessment may be used in place of only one specific EOC assessment.

A student is eligible to use a substitute assessment if the student meets all eligibility criteria listed in 19 TAC 101.4002(c)-(d).

A student electing to substitute an assessment for graduation purposes must still take the required EOC assessment if the student does not meet the eligibility requirements above.

A student who fails to perform satisfactorily on the PSAT or the ACT-PLAN as indicated in the chart at 19 TAC 101.4002(b) must take the appropriate EOC assessment to meet the assessment graduation requirements for that subject.

ii. Verification of Results

An eligible student is responsible for providing Richard Milburn Academy an official copy of the student's scores from the substitute assessment. Upon receipt of official results of an approved substitute assessment, Richard Milburn Academy must:

1. Verify the student's score on the substitute assessment; and
2. Determine whether the student met the performance standard required to qualify for a public high school diploma in Texas as established by the Commissioner.

19 TAC 101.4002, .4005.

***d)* Satisfactory Performance**

A student is required to achieve a scale score that indicates satisfactory performance, as determined by the Commissioner, on each EOC assessment instrument administered to the student. *Education Code 39.025(a)*.

***e)* Individual Graduation Committee**

A student in grade 11 or 12 who has failed to comply with the EOC assessment instrument performance requirements under Education Code 39.025 for not more than two courses may qualify to graduate on the basis of a review by an individual graduation committee ("IGC"). *Education Code 28.0258, 39.025(a-2).*

***f)* Special Education**

A student receiving special education services is not subject to the IGC requirements in Education Code 28.0258. As provided in 19 TAC 89.1070 (Graduation Requirements) and 19 TAC 101.3023 (Participation and Graduation Assessment Requirements for Students Receiving Special Education Services), a student's ARD committee determines whether a student is required to achieve satisfactory performance on an EOC assessment to graduate.

A student dismissed from a special education program who achieved satisfactory performance on an alternate EOC assessment while enrolled in a special education program is not required totake and achieve satisfactory performance on the general EOC assessment to graduate. A student who took an EOC assessment while enrolled in a special education program is not required to retake and achieve satisfactory performance on the EOC assessment if the student's ARD committee determined that the student was not required to achieve satisfactory performance on the EOC assessment to graduate. A student dismissed from a special education program must achieve satisfactory performance on any remaining EOC assessments that the student is required to take. If the student fails to achieve satisfactory performance on no more than two of the remaining EOC assessments, the student is eligible for IGC review under Education Code 28.0258 and is subject to the IGC provisions above. *19 TAC 101.3022(f)*.

A student receiving special education services who successfully completes the requirements of his or her IEP, including performance on a state assessment required for graduation, shall receive a Texas high school diploma. A student's ARD committee shall determine if the student will be required to meet satisfactory performance on an assessment for purposes of graduation.

All students in grades 9–12 with significant cognitive disabilities who are assessed with an alternate assessment as specified in the student's IEP will be assessed using alternate versions of EOC assessments as listed in 19 TAC 101.3011(b)(2).

19 TAC 101.3023(a)-(b).

g) **Credit by Examination**

An EOC assessment administered under Education Code 39.023(c) cannot be used for purposes of credit by examination under 19 TAC 74.24. *19 TAC 101.3021(c)*.

h) **Retakes**

Each time an EOC assessment instrument is administered, a student who failed to achieve a score requirement may retake the assessment instrument. A student is not required to retake a course as a condition of retaking an EOC assessment instrument. If a student failed a course but achieved satisfactory performance on the applicable EOC assessment, that student is not required to retake the assessment if the student is required to retake the course. *Education Code 39.025(b); 19 TAC 101.3021(f), .3022(d)*.

Sec. 8. REPORTING RESULTS

a) **Public Reports**

Overall student performance data, aggregated by ethnicity, sex, grade level, subject area, campus, and district, shall be made available to the public, with appropriate interpretations, at regularly scheduled meetings of the Board, after receipt from TEA. The information shall not contain the names of individual students or teachers. *Education Code 39.030(b)*.

b) Reports to the Board

The Superintendent shall accurately report all test results, with appropriate interpretations, to the Board according to the schedule in the applicable test administration materials.

c) Reports to Students, Parents, and Teachers

Richard Milburn Academy shall notify each of its students, his or her parent or guardian, and his or her teacher for that subject of test results, observing confidentiality requirements stated in Section 12-c below. All test results shall be included in each student's academic achievement record and shall be furnished for each student transferring to another district or school. Upon receipt of the assessment results from the test contractor, Richard Milburn Academy shall disclose a student's assessment results to a student's teacher in the same subject area as the assessment for that school year. *19 TAC 101.3014*.

The TEA has adopted a series of questions to be included in an EOC assessment instrument administered under Education Code 39.023(c) to be used for purposes of identifying students who are likely to succeed in an advanced high school course. Richard Milburn Academy shall notify a student who performs at a high level on the questions and the student's parent or guardian of the student's performance and potential to succeed in an advanced high school course. Richard Milburn Academy may not require a student to perform at a particular level on the questions to be eligible to enroll in an advanced high school course. *Education Code 39.0233(b)*.

d) Parent's Right-to-Know Under ESSA

As a condition of receiving assistance under Title I, Part A of the Elementary and Secondary Education Act (ESEA) (20 U.S.C. 6301 et seq.), Richard Milburn Academy shall provide to each individual parent of a child who is a student in such school, with respect to such student
information on the level of achievement and academic growth of the student, if applicable and available, on each of the state academic assessments required under Part A. *20 U.S.C. 6312(e)(1)(B)(i)*.

Sec. 9. OUT-OF-STATE TRANSFERS

Richard Milburn Academy shall accurately report to TEA whether that student transferred into Richard Milburn Academy from out of state during the current school year. Procedures for the reporting of out-of-state-transfer students to TEA shall be established in the applicable test administration materials. Richard Milburn Academy shall follow procedures specified in those test administration materials.

The assessment results of the out-of-state transfer students shall be reported separately to Richard Milburn Academy from the results of its other students in addition to the current reporting of assessment results for all students and other student subsets.

19 TAC 101.3014.

Sec. 10. ACCELERATED INSTRUCTION

Richard Milburn Academy shall provide accelerated instruction to any student who fails to perform satisfactorily on a state assessment instrument in the manner required by applicable law. *See also* **PG-2.205.**

Sec. 11. ASSESSMENT SECURITY AND CONFIDENTIALITY

All assessment instruments included in the student assessment program are considered secure, and the contents of these tests, including student information used or obtained in their administration, are confidential.

The Superintendent and campus principals in all Richard Milburn Academy schools shall:

1. Implement and ensure compliance with state test administration procedures and training activities;
2. Notify TEA as soon as Richard Milburn Academy becomes aware of any alleged or suspected violation of the security or confidential integrity of an assessment;
3. Report all confirmed testing violations to TEA within 10 working days of Richard Milburn Academy becoming aware of the violation in accordance with the reporting process stipulated in the test administration materials;
4. Ensure that the only individuals with access to secure assessment materials are Richard Milburn Academy employees who have:
    a. Met the requirements to participate in the student assessment program;
    b. Received annual training in test security and test administration procedures; and
    c. Signed an oath affirming they understand their obligation to maintain and preserve the security and confidentiality of all state assessments and student information,
    acknowledge their responsibility to report any suspected testing violation, and are aware of the range of penalties that may result from a violation of test security and confidentiality or a departure from test administration procedures; and
5. Ensure the security of assessment materials by:
    a. Verifying that all boxes of testing materials have been accounted for and match Richard Milburn Academy shipping notices upon receipt from the state's testing contractor(s);
    b. Requiring campuses to immediately inventory all testing materials received and to notify the Richard Milburn Academy testing coordinator of any shortages or discrepancies;
    c. Immediately notifying the state's testing contractor(s) of any discrepancies between the materials received and Richard Milburn Academy's shipping notices;
    d. Placing test booklets and answer documents in secure, limited-access, locked storage when not in use;
    e. Collecting and destroying any scratch paper, graph paper, or reference materials that students have written on, as well as any recordings, after the completion of a test administration;
    f. Requiring that all secure materials assigned to individual campuses have been accounted for and packaged in accordance with the procedures for returning materials as detailed in the test administration materials;
    g. Requiring that all test item image cards and photocopies or reproductions of secure test materials have been collected and returned to the Richard Milburn Academy testing coordinator for return to the testing contractor(s); and
    h. Maintaining inventory and shipping records for five years.

19 TAC 101.3031(a)(1)-(a)(2).

a) Security and Confidentiality Violations

Violations of the security and confidential integrity of an assessment include:

1. Directly or indirectly assisting students with responses to test questions;
2. Tampering with student responses;
3. Falsifying holistic ratings or student responses;
4. Viewing secure test content before, during, or after an administration unless specifically

authorized by TEA or by the procedures outlined in the test administration materials;
5. Discussing or disclosing secure test content or student responses;
6. Scoring students' tests, either formally or informally;
7. Duplicating, recording, or electronically capturing confidential test content unless specifically authorized by TEA or by the procedures outlined in the test administration materials;
8. Responding to secure test questions;
9. Fraudulently exempting or preventing a student from participating in the administration of a required state assessment;
10. Receiving or providing unallowable assistance during calibration activities (e.g., taking notes, providing answer sheets, or sharing answers);
11. Encouraging or assisting an individual to engage in the conduct described in subparagraphs (1)-(10) above or in any other serious violation of security and confidentiality;
12. Failing to report to an appropriate authority that an individual has engaged or is suspected of engaging in conduct described in subparagraphs (1)-(11) above or in any other serious violation of security and confidentiality under this section;
13. Failing to implement sufficient procedures to prevent student cheating; and
14. Failing to implement sufficient procedures to prevent alteration of test documents by anyone other than the student.

i. *Consequences / Penalties*

If Richard Milburn Academy determines that a student has cheated or attempted to cheat on a state assessment either by providing or receiving direct assistance, Richard Milburn Academy shall invalidate the student's test results. Any violation of test security or confidential integrity may result in TEA:

1. Invalidating student test results;
2. Referring certified educators to the State Board for Education Certification for sanctions; and
3. Lowering Richard Milburn Academy's accreditation status Richard Milburn Academy's or campus's accountability ratings, or appointment of a monitor, conservator, or a management team in accordance with Education Code Chapter 39A.

ii. *Test Administration Procedures and Training Activities*

Test administration procedures shall be delineated in the test administration materials provided to Richard Milburn Academy annually. Richard Milburn Academy must comply with all of the applicable requirements specified in the test administration materials.

Richard Milburn Academy shall ensure that test coordinators and administrators receive training to ensure that testing personnel have the necessary skills and knowledge required to administer assessment instruments in a valid, standardized, and secure manner.

iii. *Record Retention*

Richard Milburn Academy shall maintain records related to the security of assessment instruments for five years.

19 TAC 101.3031(a-3)-(d).

iv. *Development of Procedures*

The Superintendent and each Principal must develop procedures to ensure the security and confidentiality of state assessments, and will be responsible for notifying TEA in writing of conduct that violates the security or confidentiality of an assessment.

b) **Minimize Disruptions**

In implementing the Commissioner's procedures for the administration of assessment instruments adopted or developed under Education Code 39.023, including procedures designed to ensure the security of the assessment, Richard Milburn Academy shall minimize disruptions to school operations and the classroom environment. *Education Code 39.0301(a-1)*.

c) **Assessment Confidentiality Results**

Individual student performance results are confidential and may be released only in accordance with the Family Educational Rights and Privacy Act of 1974 (FERPA). *Education Code 39.030(b)*

PG.-2.204 STATE ASSESSMENT OF EMERGENT BILINGUAL STUDENTS

Sec. 1. DEFINITIONS

"Emergent bilingual student" means a student whose primary language is other than English and whose English language skills are such that the student has difficulty performing ordinary classwork. *Education Code 29.052(1)*; *19 TAC 101.1003(a)*.

"Recent unschooled immigrant" means an immigrant who initially enrolled in a school in the United States not more than 12 months before the date of the administration of an assessment and who, as a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum determined by the LPAC. *Education Code 39.027(g)*.

"Inadequate schooling outside the United States" is defined as little or no formal schooling outside the United States such that the asylee or refugee lacks basic literacy in his or her primary language upon enrollment in school in the United States. *19 TAC 101.1005(d)*.

Sec. 2. ENGLISH LANGUAGE PROFICIENCY ASSESSMENT

In kindergarten through grade 12, an emergent bilingual student shall be administered state-identified English language proficiency assessments annually in listening, speaking, reading, and writing to fulfill state requirements under Education Code, Chapter 39, Subchapter B, and applicable federal requirements. *19 TAC 101.1003(a)*.

In rare cases, an admission, review, and dismissal ("ARD") committee in conjunction with the LPAC may determine that it is not appropriate for an emergent bilingual student in grades 2-12 who receives special education services to participate in the general English language proficiency assessment for reasons associated with the student's particular disability. *19 TAC 101.1003(b)*.

Students with the most severe cognitive disabilities who cannot participate in the general English language

proficiency assessment, even with allowable accommodations, and meet the participation requirements for the alternate English language proficiency assessment shall participate in the alternate English language proficiency assessment to meet federal requirements. The ARD committee shall document the decisions and justifications in the student's individualized education program and the LPAC shall document the decisions and justifications in the student's permanent record file. In the case of an emergent bilingual student who receives special education services, the ARD committee in conjunction with the LPAC shall determine and document the need for allowable testing accommodations in accordance with administrative procedures established by the TEA. *19 TAC 101.1003(b)-(c)*.

a) ***Assessment Participation in General***

The LPAC shall select the appropriate assessment option for each emergent bilingual student in grade 3 or higher in accordance with Subchapter AA, Chapter 101, Part 2, Title 19 of the Texas Administrative Code. For each emergent bilingual student who receives special education services, the student's ARD committee in conjunction with the student's LPAC shall select the appropriate assessments. The LPAC shall document the decisions and justifications in the student's permanent file, and the ARD committee shall document the decisions and justifications in the student's individualized education program. Assessment decisions shall be made on an individual student basis and in accordance with administrative procedures established by the TEA. *19 TAC 101.1005(a)*.

b) ***Assessment Participation – Grades 3 and Above***

Except as provided by Subsection 2(c) of this policy, an emergent bilingual student shall participate in the grades 3-8 and end-of-course assessments, with or without allowable testing accommodations, as required by Education Code 39.023(a) and (c). Except as specified in subparagraphs (i) and (ii) below, an emergent bilingual student shall be administered the general form of the English-version state assessment.

i. *Spanish-version State Assessment*

An emergent bilingual student in grades 3-5 may be administered the Spanish-version state assessment, with or without allowable testing accommodations, if the assessment in Spanish is the most appropriate measure of the student's academic progress, in accordance with Education Code 39.023(*l*). *19 TAC 101.1005(b)*.

ii. *Students Receiving Special Education Services*

An emergent bilingual student in grade 3 or higher who receives special education services based on the most significant cognitive disabilities may be administered an alternate assessment instrument based on alternative achievement standards, in accordance with Education Code 39.023(b), if the student meets the participation requirements. *19 TAC 101.1005(b)(2)*.

The LPAC shall, in conjunction with the ARD committee, determine and document any allowable testing accommodations for assessments in accordance with administrative procedures established by the TEA. *19 TAC 101.1005(e)*.

iii. *English I Assessment Provisions for Graduation*

While an emergent bilingual student shall not be exempt from taking an end-of-course assessment for reasons associated with limited English proficiency or inadequate schooling outside the United States, the following rule shall apply to an emergent bilingual student enrolled in an English I course or an English for Speakers of Other Languages I course if the student:

1. Has been enrolled in U.S. schools for three school years or less or qualifies as an unschooled asylee or refugee enrolled in U.S. schools for five years or less; and
2. The student has not yet demonstrated English language proficiency in reading as determined by the assessment under 19 TAC 101.1003.

An emergent bilingual student who meets the eligibility criteria above shall not be required to retake the assessment each time it is administered if the student passes the course but fails to achieve the passing standard on the assessment.

19 TAC 101.1007.

c) ***Unschooled Asylees or Refugees***

In accordance with Education Code 39.027(a), an unschooled asylee or refugee who meets the criteria below shall be granted an exemption from an administration of an assessment instrument under Education Code 39.023(a), (b), or (*l*). This exemption will only apply during the school year an unschooled asylee or refugee is first enrolled in a U.S. public school. An unschooled asylee or refugee is a student who:

1. Enrolled in a U.S. school as an asylee as defined by 45 C.F.R. 400.41 or a refugee as defined by 8 U.S.C. 1101;
2. Has a Form I-94 Arrival/Departure record, or a successor document, issued by the United States Citizenship and Immigration Services that is stamped with "Asylee," "Refugee," or "Asylum"; and
3. As a result of inadequate schooling outside the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum, as determined by the LAPC.

19 TAC 101.1005(c).

Sec. 3. LIMITATIONS ON EXEMPTIONS

a) **First Year after Enrollment**

An English learner may be administered an accommodated or alternative assessment instrument or may be granted an exemption from or a postponement of the administration of the state assessment for up to one year after initial enrollment in a school in the United States if the student has not demonstrated proficiency in English as determined by the assessment system developed to evaluate academic progress of an English learner. *Education Code 39.027(a)(1)*.

b) **Subsequent Years**

An English learner granted the initial exemption period above may be administered an accommodated or alternative assessment instrument or may be granted an exemption from or a postponement of the administration of the state assessment for up to:

1. An additional two years if the student is a recent unschooled immigrant or is in a grade for which no assessment instrument in the primary language of the student is available; or
2. An additional four years if the student's initial enrollment in a school in the United States was as an unschooled asylee or refugee.

The LPAC must determine that the student lacks the academic language proficiency in English necessary for an assessment in English to measure the student's academic progress in a valid, reliable manner.

c) **Minimum Days for Enrollment**

Regardless of the date on which the student initially enrolled in a school in the United States, unless a student is enrolled in a school in the United States for a period of at least 60 consecutive days during a year, the student may not be considered to be enrolled in a school in the United States for that year for the purpose of determining a number of years under Education Code 39.027(a)(1), (2), or (3).

Education Code 39.027(a)(1)–(2), (a-1), (a-2), (g).

Sec. 4. NON-EMERGENT BILINGUAL STUDENTS

Richard Milburn Academy may administer the assessment of academic skills in Spanish to a student who is not identified as an emergent bilingual student but who participates in a bilingual program if the LPAC determines the assessment in Spanish to be the most appropriate measure of the student's academic progress. *19 TAC 101.1005(f)*.

PG.-2.205 ACCELERATED INSTRUCTION-UNSATIFACTORY PERFORMANCE ON ASSESSMENT INSTRUMENTS

Sec. 1. CURRICULAR AND INSTRUCTIONAL SYSTEMS

To ensure that each student achieves at least satisfactory performance on each state assessment instrument administered under Education Code 39.023, Richard Milburn Academy shall ensure that its curricular and instructional systems provide instruction to all students that:

1. Is consistently aligned with the essential knowledge and skills for the applicable subject area and grade level; and
2. Strategically and timely addresses deficiencies in the prerequisite essential knowledge and skills for the applicable subject area and grade level.

Education Code 28.0211(a).

Sec. 2. UNSATISFACTORY PERFORMANCE ON ASESSMENT INSTRUMENTS

a) Accelerated Instruction Program

i. *General requirements*

Each time a student fails to perform satisfactorily on an assessment instrument administered under Education Code 39.023(a) or (*l*) in the third, fourth, fifth, sixth, seventh, or eight grade or on an end-of-course assessment instrument administered under Education Code 39.023(c), other than an assessment

instrument developed or adopted based on alternative academic achievement standards, Richard Milburn Academy shall provide to the student accelerated instruction in the applicable subject area during the subsequent summer or school year and, subject to Sec. 2-a-iii and Sec. 2-a-v below, either:

1. Allow the student to be assigned a classroom teacher who is certified as a master, exemplary, or recognized teacher under Education Code 21.3521 for the subsequent school year in the applicable subject area; or
2. Provide the student supplemental instruction, as described in Sec. 2-d below.
3. STAAR-Alt 2, are retained, or take substitute high school assessments aren't subject to requirements

Education Code 28.0211(a-1).

Accelerated instruction provided during the following school year may require participation of the student before or after normal school hours. *Education Code 28.0211(a-2)*.

Richard Milburn Academy is not required to provide accelerated instruction to a student who, instead of being administered an assessment instrument specified in this Sec. 2-a-i, was administered a substitute assessment instrument in accordance with other law or Texas Education Agency rule authorizing the use of the substitute assessment instrument for purposes of satisfying the requirements concerning the applicable assessment instrument under Sec. 2-a-1. *Education Code 28.0211(a-10)*.

Richard Milburn Academy also is not required to provide a student accelerated instruction or supplemental instruction based on the student's failure to perform satisfactorily on an assessment instrument administered as an optional assessment in the same subject area in which Richard Milburn Academy is required to provide the student the accelerated or supplemental instruction. *Education Code 28.0211(a-13)*.

ii) Supplemental Instruction

If Richard Milburn Academy receives funding under Education Code 29.0881, the Coronavirus Response and Relief Supplemental Appropriations Act, or the American Rescue Plan Act of 2021, then supplemental instruction provided by Richard Milburn Academy must:

1. Include targeted instruction in the essential knowledge and skills for the applicable grade levels and subject area;
2. Be provided in addition to instruction normally provided to students in the grade level in which the student is enrolled;
3. Be provided during the subsequent summer or school year:
    a. To each student for no less than:
        i. 15 hours; or
        ii. 30 hours for a student whose performance on the applicable assessment instrument was significantly below satisfactory, as defined by commissioner rule; and
    b. Unless the instruction is provided to a student fully during summer, no less than once per week during the school year, except as otherwise provided by commissioner rule to account for school holidays or shortened school weeks.

4. Be designed to assist the student in achieving satisfactory performance in the applicable grade level and subject area;
5. Include effective instructional materials designed for supplemental instruction;
6. Be provided to a student individually or in a group of no more than four students, unless the parent or guardian of each student in the group authorizes a larger group;
7. Be provided by a person with training in the applicable instructional materials for the supplemental instruction and under the oversight of Richard Milburn Academy; and
8. To the extent possible, be provided by one person for the entirety of the student's supplemental instruction period.

Education Code 28.0211(a-4).

iii. Limitations on supplemental instruction

Richard Milburn Academy may not be required to provide supplemental instruction to a student in more than two subject areas per school year. If Richard Milburn Academy would otherwise be required to provide supplemental instruction to a student in more than two subject areas for a school year, Richard Milburn Academy shall prioritize providing supplemental instruction to the student in mathematics and reading, or Algebra I, English I, or English II, as applicable for that school year. Education Code 28.0211(a-8).

iv. *Limitations on scheduling accelerated instruction programs*

In providing accelerated instruction under Sec. 2-a-1, Richard Milburn Academy may not remove a student, except under circumstances for which a student enrolled in the same grade level who is not receiving accelerated instruction would be removed, from:

1. Instruction in the foundation curriculum and enrichment curriculum for the grade level in which the student is enrolled; or
2. Recess or other physical activity that is available to other students enrolled in the same grade level.

Education Code 28.0211(a-3).

v. *Students who are retained*

The requirements for accelerated instruction under Sec. 2-a-1 do not apply to a student who is retained at a grade level for the school year in which those requirements would otherwise apply. Education Code 28.0211(a-7).

vi. Accelerated Education Plan

a) General requirements

Richard Milburn Academy shall develop an accelerated education plan ("AEP") for each student who does not perform satisfactorily on an assessment instrument specified under Sec. 2-a-1 for two or more consecutive school years in the same subject area.

Not later than the start of the subsequent school year, Richard Milburn Academy shall develop an AEP for each student identified in this section that provides the necessary accelerated instruction to enable the student to perform at the appropriate grade or course level by the conclusion of the school year. The AEP:

1. Must:
    a. Identify the reason the student did not perform satisfactorily on the applicable assessment instrument; and
    b. Unless otherwise allowed under Education Code 28.0211(a-4)(3)(A), require the student to be provided with no less than 30 hours, or a greater number of hours if appropriate, of supplemental instruction for each consecutive school year in which the student does not perform satisfactorily on the assessment instrument in the applicable subject area; and
2. May require that, as appropriate to ensure the student performs satisfactorily on the assessment instrument in the applicable subject area at the next administration of the assessment instrument:
    a. Richard Milburn Academy expand the times in which supplemental instruction under Sec. 2-a-ii-3 is available to the student;
    b. The student be assigned for the school year to a specific teacher who is better able to provide accelerated instruction; and
    c. Richard Milburn Academy provide any necessary additional resources to the student.

Education Code 28.0211(f).

An AEP must be documented in writing, and a copy must be provided to the student's parent or guardian. *Education Code 28.0211(f-1)*.

Except as requested under Sec. 2-a-viii or provided by the wavier process under Sec. 2-a-vi-a, a student for whom an AEP must be developed must be assigned, in each school year and subject covered by the AEP, to an appropriately certified teacher who meets all state and federal qualifications to teach that subject and grade. *Education Code 28.0211(n)*.

The commissioner may waive the requirement regarding assignment of a student to an appropriately certified classroom teach on the request of Richard Milburn Academy. *Education Code 28.0211(n-1)*.

b) Monitoring

Richard Milburn Academy shall monitor the student during the school year to ensure that the student is progressing in accordance with the AEP. Education Code 28.0211(f-2).

c) Complaint Process

The Superintendent or designee shall develop a process to allow a parent to contest the content or implementation of an AEP. Education Code 28.0211(f-3).

This process shall recognize the Board's final authority to hear or decide parent and student grievances. The grievance process shall not be construed to create new or additional rights beyond those granted by

law or Board policy, nor to require a full evidentiary hearing or "mini- trial" at any level. The Superintendent or designee shall ensure that the parent appeal process is made available to students and parents through the Student and Parent Handbook.

The Board shall retain final authority to hear or decide parent and student grievances. *19 TAC 100.1113(a)(1)(A)*.

The Board may conduct a closed meeting when hearing or deciding a parent or student grievance as allowed by applicable law. *Gov't Code Ch. 551, Subch. D*.

vii. *Parental election to modify or opt-out*

A parent or guardian of a student to whom supplemental instruction will be provided and who either was administered and failed to perform satisfactorily on an assessment instrument specified in Sec. 2-a-1 above or was administered a beginning-of-year assessment instruction aligned with the essential knowledge and skills for the applicable subject area, including a student to whom Sec. 2-a-vi-a applies, may elect to modify or remove a requirement for that instruction by submitting a written request to an administrator of the campus at which the student is enrolled. Richard Milburn Academy may not encourage or direct a parent or guardian to:

1. Not provide supplemental instruction to the student; or
2. Provide supplemental instruction in a group larger than authorized under Sec. 2-a-ii, item 6. *Education Code 28.0211(a-9)*.

viii. *Parent requests for classroom assignments*

The Superintendent or designee shall establish a process allowing for the parent or guardian of a student who fails to perform satisfactorily on an assessment instrument specified in Sec. 2-a-i to make a request for consideration that the student be assigned to a particular classroom teacher in the applicable subject area for the subsequent school year, if more than one classroom teacher is available. Education Code 28.0211(a-5).

This process shall be included in Richard Milburn Academy's Student and Parent Handbook.

b) Agency-Approved Alternatives

Richard Milburn Academy may utilize an automated, computerized, or other augmented method approved by the Texas Education Agency for providing supplemental instruction in lieu of some or all of the individual or group instruction required under Sec. 2-a-ii, as appropriate for the applicable grade level and subject area and a student's academic deficiency. <<School Name's>> use of an automated, computerized, or other augmented method shall be in accordance with rules adopted by the commissioner. Education Code 28.0211(a-11).

c) Use of Service Providers

For the purpose of providing accelerated instruction or supplemental instruction under this policy, Richard Milburn Academy may use a service provider that is not on a list of service providers approved by the Texas Education Agency if Richard Milburn Academy can demonstrate to the commissioner that use of the service provider results in measurable improvement in student outcomes. Education Code 28.0211(a-12).

d) Notice of Unsatisfactory Performance

Richard Milburn Academy shall provide to the parent or guardian of a student who fails to perform satisfactorily on an assessment instrument specified under Sec. 2-a-i notice that the student is not performing on grade level in the applicable subject area. Notwithstanding Sec. 4, the notice must be provided at a parent-teacher conference or, if Richard Milburn Academy is unable to provide the notice at a parent-teacher conference, by another means. *Education Code 28.0211(a-14)*.

For each such student, Richard Milburn Academy shall make a good faith attempt to provide a parent-teacher conference with the student's primary teacher at the start and end of the subsequent school year. At the conference, Richard Milburn Academy shall provide the student's parent or guardian with:

1. Notice that the student is not performing on grade level in the applicable subject area; and
2. An explanation of the accelerated instruction to which the student is entitled and the AEP that must be developed for the student, and the manner in which the parent or guardian may participate in developing the plan.

Education Code 28.0211(b-1).

e) Students in Homebound or Other Off-Campus Instructional Arrangements

If a student who attends school in a homebound or other off-campus instructional arrangement, including at a residential treatment campus or state hospital, is unable to participate in an accelerated instruction program due to the student's condition, Richard Milburn Academy may determine that the student be provided the accelerated instruction when the student attends school in an on-campus instructional setting. If the student's condition prevents the student from attending school in an on-campus instructional setting for the school year during which the accelerated instruction is required to be provided to the student, Richard Milburn Academy is not required to provide the accelerated instruction to the student for that school year. Education Code 28.0211(i-1).

Sec. 3. SPECIAL EDUCATION STUDENTS

The admission, review, and dismissal ("ARD") committee of a student who participates in Richard Milburn Academy's special education program and who does not perform satisfactorily on an assessment instrument specified in Sec. 2-a above shall, at the student's next ARD meeting , review the student's participation and progress in, as applicable, accelerated instruction, supplemental instruction, or an AEP developed at a parent teacher conference. The student's parent may request, or Richard Milburn Academy may schedule, an additional ARD committee meeting if a committee member believes that the student's individualized education program needs to be modified based on the requirements in Education Code 28.0211. If Richard Milburn Academy refuses to convene a committee meeting requested by the student's

parent or guardian, Richard Milburn Academy shall provide written notice explaining the reason of its refusal to convene the meeting. Education Code 28.0211(i).

Sec. 4. PARENT NOTICE

In each instance under this policy in which Richard Milburn Academy is required to provide notice or a written copy to a parent or guardian, Richard Milburn Academy shall make a good faith effort to ensure that such notice or copy is provided either in person or by regular mail and that the notice or copy is clear and easy to understand and is written in English or the parent or guardian's native language. Education Code 28.0211(h).

Sec. 5. RETENTION DECISIONS

This policy does not preclude Richard Milburn Academy from retaining at a grade level a student who performs satisfactorily on an assessment instrument specified under Sec. 2-a-i in accordance with state law or Board policy. Education Code 28.0211(g).

PG.-2.206 PARENTAL ELECTION

Sec. 1. PARENTAL ELECTION

Subject to Section 2, a parent or guardian may elect for a student to repeat certain courses and grades as set forth below. An election made by a parent or guardian under this Section shall be made in writing to Richard Milburn Academy. *Education Code 28.02124(a)-(b).*

a) ***High School Credit Courses***

For courses taken for high school credit, a parent or guardian may elect for a student to repeat any course in which the student was enrolled in during the previous school year. This option is not available for students if Richard Milburn Academy determines the student has met all of the requirements for graduation. *Education Code 28.02124(a-1)*.

Sec. 2. RETENTION COMMITTEE

If Richard Milburn Academy disagrees with a parent or guardian's election for a student to repeat a grade or retake a course, Richard Milburn Academy must convene a retention committee and meet with the parent to discuss retention.

a. Meeting Format

The retention committee meeting shall be conducted in person unless an alternative means is agreeable to the parent or guardian. A student may not be retained for a grade or retake a course if the parent or guardian does not meet with the retention committee. *Education Code 28.02124(c).*

b. Committee Members

The retention committee shall be composed of:

1. the principal or the principal's designee;
2. student's parent or guardian;
3. the teacher who taught the grade or course for which the parent wants the student retained or repeated; and
4. additional teachers at the discretion of the principal, if the student will potentially repeat multiple courses. *Education Code 28.02124(d).*

c. Meeting Requirements

During the meeting, the retention committee shall:

1. discuss the merits of and concerns with advancement and retention; and
2. review and consider the student's grade in each subject or course, the results of any formative or summative assessments administered to the student, and any other available academic information to determine the student's academic readiness for the next grade or a given course. *Education Code 28.02124(e).*

d. Retention Decision

After the parent or guardian participates in the retention committee meeting, the parent or guardian shall decide whether the student should be retained or retake a grade or course. Richard Milburn Academy must abide by the decision of the parent or guardian. *Education Code 28.02124(f).*

Retention under this policy shall be considered the same as retention of a student by Richard Milburn Academy. *Education Code 28.02124(h)*.

e. Repeating a Grade or Course for which Credit Has Been Earned

Richard Milburn Academy will permit a student who has received a passing grade or earned credit for a high school course the opportunity to repeat the course once. Upon repeating the course, the student will receive the higher of the two grades, in alignment with *Education Code 28.02124(g)*.

Sec. 3. TRANSFER OF RIGHTS

The rights of a parent or guardian under Education Code 28.02124 and this policy transfer to a student if the student is 18 years of age or older or has had the disabilities of a minor removed, unless the student is under a form of guardianship imposed by law or court order that continues after the student turns 18 years of age. *Education Code 28.02124(i).*

PG.-2.301 SELECTION AND ADOPTION OF INSTRUCTIONAL MATERIALS

Sec. 1. DEFINITIONS

"**Full subject tier one instructional material**" means instructional material designed to, if implemented as designed, provide a student with mastery of the essential knowledge and skills adopted by the board for a certain subject and grade level in the required curriculum under Section 28.002 or for prekindergarten without the need for supplementation. *Education Code 31.002(1)*.

"Instructional materials" means content that conveys the essential knowledge and skills of a subject in the school curriculum through a medium or a combination of media for conveying information to a student. The term includes (i) material used by a teacher, including a lesson plan, answer key, grading rubric, or unit plan; (ii) material used by a principal or campus instructional leader to support instruction; and (iii)

material used by a student, including a book, supplementary materials, a combination of a book, workbook and supplementary materials, computer software, magnetic media, DVD, CD- ROM, computer courseware, online services, or an electronic medium, or other means of conveying information to the student or otherwise contributing to the learning process through electronic means, including open education resource instructional material, as defined by *Education Code 31.002(1-a)*.

"Open education resource instructional material" means teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that allows for free use, reuse, modification, and sharing with others, including full courses, course materials, modules, textbooks, streaming videos, tests, software, and any other tools, materials, or techniques used to support access to knowledge. *Education Code 31.002(1- a)*.

"**Partial subject tier one instructional material**" means instructional material designed to, if implemented as designed, provide a student with mastery in a portion of the essential knowledge and skills adopted by the State Board of Education for a certain subject and grade level in the required curriculum under Section 28.002 or for prekindergarten without the need for supplementation in the essential knowledge and skills covered. *Education Code 31.002(1-c)*.

"**Supplemental instructional material**" means instructional material designed to assist in the instruction of one or more of the essential knowledge and skills adopted by the State Board of Education for a subject in the required curriculum under Section 28.002 or for prekindergarten. *Education Code 31.002(3)*.

"Technological equipment" is hardware, a device, or equipment necessary for instructional use in the classroom, including to gain access to or enhance the use of electronic instructional materials; or professional use by a classroom teacher. *Education Code 31.002(4)*.

Sec. 2. LOCAL SELECTION

a) Selection Team

Richard Milburn Academy shall establish a team, as needed, to select instructional materials and technological equipment to be purchased with Richard Milburn Academy's instructional materials allotment. The team shall make selections based upon Richard Milburn Academy's instructional needs and in accordance with administrative regulations.

The instructional materials allotment team shall ensure that selected materials, in combination with any other materials in use by Richard Milburn Academy, allow Richard Milburn Academy to certify that all students are provided with instructional materials that cover the essential knowledge and skills, as required by law.

The Board shall select instructional materials in an open meeting as required by the Texas Open Meetings Act, including public notice. *19 TAC 66.104(a)*.

i. *Open Education Resource Instructional Materials*

In selecting material each year, Richard Milburn Academy may consider but cannot be required to, adopt or the use of open education resource instructional materials. *Education Code 31.073(a)*.

Richard Milburn Academy may adopt state-developed open education resource instructional materials at any time, regardless of the instructional material review and adoption cycle. *Education Code 37.073(c)*.

ii. *Special Education*

Adopted instructional materials shall be supplied to a student in special education classes as appropriate to the level of the student's ability and without regard to the grade for which the instructional material is adopted or the grade in which the student is enrolled. *19 TAC 66.104(c)*.

b) Certification of Provision of Instructional Materials

Richard Milburn Academy shall annually certify to the State Board of Education ("SBOE") and the Commissioner of Education that,

1. For each subject in the required curriculum under Education Code 28.002, other than physical education, and each grade level, the school:
    a. Provides each student with instructional materials that cover all elements of the essential knowledge and skills adopted by the SBOE for that subject grade level and;
    b. In the provision of instructional materials, protects students from obscene or harmful content as necessary for compliance with: (i) the Children's Internet Protection Act; (ii) Education Code 28.0022; (iii) Penal Code 43.22; and (iv) any other law or regulation that protects students from obscene or harmful content; and
2. Life School used money allocated to the school under the instructional materials and technology allotment only for purposes allowed under Education Code 31.0211.

Education Code 31.1011(a).

To determine whether each student has instructional materials that cover all elements of the essential knowledge and skills, Richard Milburn Academy may consider:

1. Instructional materials adopted by the SBOE;
2. Instructional materials developed, purchased, or otherwise acquired by Richard Milburn Academy; and
3. Open education resource instructional materials and other electronic materials included in the state's open education resource instructional materials repository.

Education Code 31.1011(b).

Richard Milburn Academy shall annually report to the Texas Education Agency information regarding to the instructional materials used by Richard Milburn Academy during the previous school year, including the cost of each material, to assist the agency in ensuring compliance with Education Code 31.151(a). *Education Code 31.1012*.

Sec. 3. OWNERSHIP AND DISTRIBUTION OF INSTRUCTIONAL MATERIALS

Each instructional material purchased by Richard Milburn Academy is the property of Richard Milburn Academy. Electronic instructional material purchased by Richard Milburn Academy is the property of Richard Milburn Academy only to the extent of any applicable licensing agreement. The Board shall distribute printed instructional material to students in a manner that the Board determines is the most effective and economical. *Education Code 31.102*.

Sec. 4. CRIMINAL OFFENSE

A Board member, administrator, or teacher commits an offense if the person receives any commission or rebate on any instructional materials or technological equipment used in the schools with which the person is associated.

A Board member, administrator, or teacher commits an offense if the person accepts a gift, favor, or service that:

1. Is given to the person or the person's school;
2. Might reasonably tend to influence the person in the selection of instructional material or technological equipment; and
3. Could not be lawfully purchased with funds from the state textbook fund. "Gift,

favor, or service" does not include:

1. Staff development, in-service, or teacher training; or
2. Ancillary materials, such as maps or worksheets, that convey information to the student or otherwise contribute to the learning process.

Education Code 31.152.

Sec. 5. REQUESTS FOR SUPPLIES

Employees should initiate requests for instructional supplies through the Principal.

Sec. 6. EMPLOYEE TRAINING

The Board shall require the employee responsible for ordering instructional materials to complete TEA-developed training in the use of the Instructional Materials Allotment and the use of the instructional materials ordering system. Training shall be completed in accordance with 19 TAC 66.107(d).

PG.-2.302 LIBRARY MATERIALS

Sec. 1. DEFINITIONS

While "instructional materials" and "library materials" are both considered instructional resources, they are not the same, and the terms shall not be used interchangeably

a) Instructional materials

Instructional materials are defined as content in the school's core educational program that conveys the essential knowledge and skills of a subject in the public school curriculum through a medium or a combination of media for conveying information to students, and as further defined by Education Code 31.002(1-a).

b) Library materials

For purposes of this policy, library materials, whether held in a formal school library or in a classroom,

are defined as electronic, print, and nonprint resources, excluding textbooks, for independent use by students and faculty to supplement and support the Richard Milburn Academy's core educational program.

c) Open-source instructional material

Open-source instructional material is electronic instructional material that is available for downloading from the Internet at no charge to a student and without requiring the purchase of an unlock code, membership, or other access or use charge, except for a charge to order an optional printed copy of all or part of the instructional material. Education Code 31.002(1-a).

d) Technological equipment

Technological equipment is hardware, a device, or equipment necessary for instructional use in the classroom, including to gain access to or enhance the use of electronic instructional materials; or professional use by a classroom teacher. Education Code 31.002(4).

Sec. 2. OBJECTIVES

This policy provides criteria for the selection, removal, and replacement of library materials, focused on maximizing transparency with parents and community members while meeting student needs to provide supplemental enrichment in their learning with appropriate materials. Through the provision of these library materials, Richard Milburn Academy shall recognize that parents hold an essential role in the education of their children and have the right to guide what their children read.

Richard Milburn Academy shall apply the standards, dimensions, and expectations as defined by rule 13 TAC §4.1, and any related guidance including the Texas State Library and Archives Commission's Guidance for School Libraries on Collection Development, as well as the School Library Programs: Standards and Guidelines for Texas to evaluate and set goals for the school library collection in alignment with board-approved policies and procedures.

Sec. 3. AVOIDING INAPPROPRIATE MATERIAL

In addition to the above criteria for selection, all material should be appropriate for students. Texas Penal Code §43.24(a)(2) describes harmful material as material whose dominant theme taken as a whole: (1) appeals to the prurient interest of a minor, in sex, nudity, or excretion; (2) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and (3) is utterly without redeeming social value for minors. It is an offense in Texas to distribute this material in violation of Texas Penal Code §43.24(b). No library material shall be used if it contains content that can meet the harmful material standard. Finally, the library collection development policies must demonstrate a commitment to compliance with the Children's Internet Protection Act (CIPA) as specified in 47 U.S.C. §254(h)(5), including technology protection measures.

Sec. 4. RESPONSIBIITY FOR SELECTION

While the legal responsibility for the purchase of all instructional materials is vested in the Richard Milburn Academy School Board, the responsibility for the selection of library materials is discharged to

the Richard Milburn Academy Principal. The Board will provide final approval for all new materials added to the library.

Sec. 5 CRITERIA FOR SELECTION

All selected material shall be appropriate for students as described under Texas Penal Code §43.24(a)(2) which describes harmful material as material whose dominant theme taken as a whole: (1) appeals to the prurient interest of a minor, in sex, nudity, or excretion; (2) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and (3) is utterly without redeeming social value for minors. It is an offense in Texas to distribute this material in violation of Texas Penal Code §43.24(b). No library material shall be used if it contains content that can meet the harmful material standard. Finally, collection development policies must demonstrate a commitment to compliance with the Children's Internet Protection Act (CIPA) as specified in 47 U.S.C. §254(h)(5), including technology protection measures.

The district-level library supervisor or designated administrator shall work cooperatively with library staff, faculty, and the administration to apply this policy in making selections for school library collections. To ensure parental engagement, Richard Milburn Academy shall make the selection process of library materials readily available for parental review, with a list of all library materials posted on-line on the district's website, and the content of all materials available for direct review during reasonable hours specified for such review.

Each item selected shall:

1. Support and enrich the curriculum and/or students' personal interests and learning;
2. Meet high standards in literary, artistic, and aesthetic quality; technical aspects; and physical format;
3. Be appropriate for the subject area and for the age, intellectual development, and ability level of the students for whom the materials are selected;
4. For non-fiction resources, incorporate accurate and authentic factual content from authoritative sources;
5. Earn favorable reviews in standard reviewing sources and/or favorable recommendations based on preview and examination of materials by professional personnel;
6. Balance cost with need.
7. Avoid inappropriate material as defined above.

In addition to the above criteria, fiction, narrative nonfiction (memoirs and biographies), and graphic novels must each meet the following selection criteria, with Richard Milburn Academy determining that such materials:

1. Are integral to the instructional program.
2. Reflect the interests and needs of the students and faculty.
3. Are appropriate for the reading levels and understanding of students.
4. Are included because of their literary or artistic value and merit.
5. If narrative nonfiction, present information with the greatest degree of accuracy and clarity.

The following selection objectives are adopted to ensure the selected material is aligned with Richard Milburn Academy educational program and curriculum

- To provide materials that enrich and support the curriculum and personal needs of the users, considering their varied interests, abilities and learning styles
- To provide materials that stimulate growth in factual knowledge, literary appreciation, aesthetic values, and ethical standards in the pluralistic society
- To provide a background of information which enables students to make intelligent judgments in their daily lives
- To provide materials on opposing sides of controversial issues that users may develop the practice of critical analysis
- To provide materials which realistically represent our pluralistic society and reflect the contributions made by all groups and individuals to our American heritage
- To principle above personal opinion and reason above prejudice in selection of materials of the highest quality to assure a comprehensive library media collection for all users.

The following criteria for selection addresses the educational goals of Richard Milburn Academy

- Relevance to today's world, reflecting problems, aspirations, attitudes and ideals of society
- Educational significance
- Need of, and value to the collection
- Contributions of the subject matter to the curriculum and tot eh interests of students
- Overall quality as based on preview and examination of materials by professional personnel
- Reputation and significance of the author, producer and publisher
- Validity, currency, and appropriateness of material
- Contribution the material makes to breadth of representative viewpoints on controversial issues
- Appeal of the material to the library's users
- Artistic quality and/or literary style
- Quality and variety of format
- Value commensurate with cost and/or need
- Timeliness or permanence
- Integrity
- Not inappropriate, as defined above.

Prior to any material being selected for inclusion, all library material shall have been read, reviewed, and recommended for inclusion by the district-level library supervisor or individual(s) designated by that supervisor/media specialist. If more support and/or resources are needed for this review, the Board may approve the engagement of a cooperative of other Texas public schools and rely upon the recommendation of that cooperative.

Sec. 6. ACQUISITION PROCEDURES

The district-level library supervisor or designated administrator/media specialist shall select material based on their own expertise and solicit recommendations from others. Recommendations for library acquisitions shall involve administrators, teachers, other Richard Milburn Academy personnel, parents, and community representatives, as appropriate.

Selection of materials is an ongoing process that includes the removal of collections deemed by the Board or the district-level library supervisor or designated administrator/media specialist to be no longer appropriate and the periodic replacement or repair of mate- rials still of educational value.

School library materials orders shall be approved by the district-level library supervisor or designated administrator/media specialist for both orders at the district and campus level.

When acquiring new library material content not previously acquired, the district-level librarian or designee shall submit a list to the Superintendent for inclusion in a board agenda. The Board shall be provided the list at least thirty days prior to action.

Richard Milburn Academy may not purchase library material from a library material vendor who is listed on the Texas Education Agency's list of library material vendors who fail to comply with Education Code 35.003(b). *Education Code 35.003(d)*.

a) Individual board member review

If any board member questions or desires further information on any title or author, he/she shall contact the Superintendent at least thirty (30) days before board action. The Superintendent or designee shall then contact the district-level library supervisor to obtain copies of professional re- views of any library material in question. If so desired, the board member can obtain a copy of the library material from another source.

b) Board action

The order of purchase for library materials in its entirety, including any materials in question by individual board members, shall be presented to the Board following the 30-day review period.

Prior to voting, individual Board members shall have an opportunity to present their rationale for desiring to exclude certain books from the order, with amendments to the proposed list considered either as a group or individually, depending on board action. After Board approval, the final list shall be processed for order. As the new materials are received, they shall be checked against a master list of materials ordered.

The selection and acquisition of the digital library collection will follow the same policies and procedures as the physical library collection. The district shall ensure that the method by which students access the digital library will allow students only to access age/grade-appropriate content. The curator will apply access levels by consulting the peer-reviewed recommended age group, District librarians, and educators. Access levels shall be applied as:

Recommended Ages	Grade Span	Content Access Level
14+	9-12	High School
Adult	9-12	High School

c) TexQuest digital resources

TexQuest is the Texas State Library and Archives Commission's (TSLAC's) electronic instructional resources program for public schools. District participation in TexQuest is voluntary. TexQuest is supported by the Texas Legislature and by participation fees paid by school districts and open enrollment charter schools. TSLAC administers all aspects of the TexQuest program and coordinates with districts on the implementation and management of any TexQuest resources the district or school system selects to make available for its students.

TSLAC licenses resources for the TexQuest program following state procurement practices and with opportunities for community input. Professional librarians evaluate resources for inclusion in the program based on the TexQuest Collection Development Policy and actively manage the resulting contracts. Use of any or all TexQuest digital resources and e-books remains a Board decision.

Sec. 7. CHALLENGE PROCEDURES

A parent of a Richard Milburn Academy student or any Richard Milburn Academy resident may formally challenge library material used in the Richard Milburn Academy's educational program on the basis of appropriateness. The school receiving a complaint about the appropriateness of a library material shall try to resolve the matter informally through a telephone/video conference or meeting between the complainant and the school librarian, designated campus administrator, or District-level library supervisor.

The conference may also include other necessary staff members as deemed appropriate by district-level library personnel.

If the complainant wishes to file a formal request for reconsideration, a copy of the "Request for Reconsideration of Library Materials" form shall be provided to the complainant by district-level Library supervisor or designated administrator/media specialist. The following shall apply:

1. All formal concerns regarding library materials shall be submitted on the form provided by the Richard Milburn Academy and shall submit the completed and signed form to district-level library supervisor or designated administrator/media specialist.

2. The District-level library supervisor/media specialist shall appoint a reconsideration committee within ten business days that shall review the challenged material and determine whether it conforms to the principles of selection set out in this policy.

3. The reconsideration committee shall include both district and campus-level professional staff, including at least one member who has experience using the challenged resource with students or is familiar with the content of the challenged material, and two parents of students. The Superintendent or designee shall chair the committee.

4. The total voting committee membership shall be an uneven number. The complainant will not be a member of the committee, but the complainant's written submission will be thoughtfully considered by the committee.

5. Prior to the committee meeting, each committee member will read a copy of the library

material in question.

6. All committee members shall review the submitted written concern.

7. The committee will review all items on the Checklist for Re- consideration of Library Materials.

8. After working through the checklist for reconsideration of library materials and any deliberations the committee feels necessary, committee members will vote on the dis- position of the library material being considered.

The major criterion for the final decision on challenged library material is the appropriateness of the resource for its intended educational use. The plurality opinion in *Bd. of Educ. v. Pico*, 457 U.S. 853 (1982) uses the standard that no challenged instructional resource shall be removed solely because of the ideas expressed therein. The opinion allows the removal of materials because they are pervasively vulgar or based upon the lack of educational suitability of the library material. Further, making a determination of appropriateness will include a review of and compliance with 47 U.S.C. §254(h)(5), Texas Penal Code §43.24(a)(2), and Texas Penal Code §43.24(b).

When the committee has reached a decision, the appropriate District-level administrator/media specialist shall notify the complainant. The decision shall be in written form, dated, and provided to the complainant within ten (10) District business days of the committee's meeting. All other appropriate staff members will be informed of the recon- sideration and the outcome.

A specific library material that completes the formal challenge process and remains in the library will not be reconsidered within one year of final determination, and any material removed will not be eligible for consideration to be added again for at least 10 years. The district shall verify previous decisions prior to convening a re- consideration committee.

As noted above, TSLAC administers all aspects of the TexQuest program and has adopted policies for the selection and management of TexQuest resources. Challenges to material provided through the program would follow the TSLAC TexQuest Content review process.

Appeal of Reconsideration Committee. The complainant may appeal the decision of the reconsideration committee by filing the appropriate district grievance form.

The decision of the Board, if appealed to the Board, is final and non-appealable.

Sec. 8. OPPORTUNITY FOR PARENT REVIEW

In recognizing that parents hold an essential role in the education of their children and have the right to guide what their children read, each library shall maintain a printed list of materials onsite and on the school library website that shows what has been selected as well as what is slated for acquisition. The Superintendent, or designated District-level administrator/media specialist, will offer a "Parent Preview" at least ten days before books are to be placed on the shelves, once in the fall and once in the spring. Audio-visual materials are to be made available to parents for in-person review, upon request, on the same basis as printed materials are made available.

Sec. 9. OTHER PARENTAL CONSIDERATIONS

In school libraries, students are afforded the opportunity to self- select texts as part of literacy development. While librarians are trained in selecting materials in accordance with Board policy and the outlined selection criteria and may provide guidance to students in selecting texts, the ultimate determination of appropriate- ness lies with the student and parent.

School librarians, or designated campus administrators, are to encourage parents to share any considerations regarding their students' book selections. Parents may contact the campus librarian directly and/or complete an online form for library book opt-out decisions. School librarians will accommodate individual requests by parents, within reason, which may include restricting specific titles or books.

Richard Milburn Academy may not allow an enrolled student to reserve, check out, or otherwise use outside the school library any library materials rated as sexually relevant material unless the school first obtains written consent from the student's parent or person standing in parental relation. *Education Code 35.005*.

Sec. 10. CRITERIA FOR GIFTS AND DONTATIONS

Gifts and donations to the school library or classroom libraries are accepted with the understanding that the decision for use and disposition of the materials and/or funds will be determined using the same selection criteria as purchased materials. All materials should support the curriculum and needs of library users. Gifts and donations, like purchased resources, will be removed from the collection at the end of their useful life. Gifts and donations will be subject to the acquisition policy and process for approval before including in the school library collection or in a classroom library.

Sec. 11. ROUTINE REVIEW AND REMOVAL OF MATERIALS

Bi-annually OR Annually, the District-level library supervisor/media specialist shall collaborate with campus library personnel and administration to conduct an inventory of the school library collection and equipment. The inventory can be used to determine losses and remove damaged or worn materials which can then be considered for replacement. The inventory can also be used to deselect and remove materials that are no longer relevant to the curriculum or of interest to students. Additionally, the District-level library supervisor/media specialist should develop a collection maintenance plan that includes systematic inspection of materials that would result in removing outdated, damaged, or irrelevant materials from the collection. All materials removed from the collection shall be disposed of in accordance with the District's property disposal procedures. Incorporated into this routine review and removal of existing inventory, the District shall create an ongoing cycle to review content existing in circulation.

Sec. 12. REVIEW AND REPORTING OF CERTAIN LIBRARY MATERIALS

Not later than January 1 of every odd-numbered year, Richard Milburn Academy shall:

1. Review the content of each library material in the catalog of a school library that is rated as sexually relevant material under Education Code 35.002(a) by the library material vendor;

2. Determine in accordance with the school's policies regarding the approval, review, and reconsideration of school library materials whether to retain each library material reviewed in the school library catalog; and
3. Either (i) post in a conspicuous place on the Internet website maintained by the school a report; or (ii) provide physical copies of the report at the Richard Milburn Academy central administrative office.

The report must include:

1. The title of each library material reviewed;
2. Richard Milburn Academy's decision regarding the library. Material ; and
3. The school or campus where the library material is currently located.

Education Code 35.006.

LIBRARY REQUEST FOR RECONSIDERATION OF MATERIAL

School:_____

Title:_____

Media Format (Book/video):_____

Author/Producer:_____

Request Initiated By

Name:_____

Address:_____

Telephone:_____

Does the person making this request represent a group or organization? Yes/No

If so, please identify the name of the organization:_____

Please answer the following questions:

1. Have you read, viewed, or listened to the material in its entirety? Yes/No
2. Please cite specific pages to which you objected. (Explain your objections
3. What do you identify as the theme of the material?
4. What good features do you identify?
5. For what age group would you recommend this material?
6. In place of this material, please recommend other material, which you consider to be of equal or superior quality for the educational purpose intended.
7. Do you wish to make an oral presentation to the Library Media Committee? Yes/No

Signature: _____ Date:_____

PG.-2.401 HOMEBOUND SERVICES

Sec. 1. GENERAL HOMEBOUND EDUCATION

In accordance with the Texas Education Agency's *Student Attendance Accounting Handbook* (SAAH), a student may be eligible for general education homebound services if the student is to be confined for a minimum of four weeks to a hospital or homebound for medical reasons specifically documented by a physician licensed to practice in the United States. The weeks of confinement need not be consecutive. A parent request for such services shall be made through the Principal in accordance with the SAAH and administrative procedures.

The Principal or designee shall convene a placement committee composed of at least a campus administrator, a teacher of the student, and the student's parent or guardian to consider the necessity of providing general education homebound instruction to the student. If the committee determines that such instruction is appropriate, the committee shall determine the type and amount of instruction to be provided and the length of the transition period when the student is able to return to the regular educational setting, based on current medical information.

19 TAC 89.63(c)(2).

Sec. 2. SPECIAL EDUCATION STUDENTS

Consistent with state rule and the SAAH, a student receiving special education services may be eligible for special education homebound services if the student is to be confined for a minimum of four weeks to hospital or homebound setting for medical reasons specifically documented by a physician licensed to practice in the United States. If a student is chronically ill, the student's admission, review, and dismissal committee shall determine whether the weeks of confinement need be consecutive.

If the ARD committee determines that homebound instruction is appropriate, the committee shall determine the type and amount of instruction to be provided in accordance with law and, if applicable, the length of the transition period based on current medical information.

Sec. 3. DOCUMENTATION OF SERVICES

Richard Milburn Academy shall maintain full documentation regarding students receiving homebound services in accordance with administrative procedures, the SAAH, and the student's individualized education program, as applicable.

PG.-2.402 TRANSITION SERVICES

Sec. 1. Definitions

"Transition services" means a coordinated set of activities for a child with a disability that:

1. Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.
2. Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests;

and includes:

a. Instruction;
b. Related services;
c. Community experiences;
d. The development of employment and other post-school adult living objectives; and
e. If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

20 U.S.C. 1401(34); 34 CFR 300.43.

Sec. 2. Individual Transition Planning

a. *Transition Services in General*

In accordance with Education Code 29.011 and 29.0111, not later than when a student reaches 14 years of age, the admission, review, and dismissal ("ARD") committee must consider, and if appropriate, address the following issues in the individualized education program ("IEP"):

1. Appropriate student involvement in the student's transition to life outside the public school system;
2. If the student is younger than 18 years of age, appropriate involvement in the student's transition by the student's parents and other persons, if the parent or other persons invited to participate by the student's parents or Richard Milburn Academy:
3. If the student is at least 18 years of age, involvement in the student's transition and future by the student's parents and other persons, if the parent or other person is invited to participate by the student or Richard Milburn Academy or has the student's consent to participate pursuant to a supported decision-making agreement under Texas Estates Code, Chapter 1357;
4. Appropriate postsecondary education options, including preparation for postsecondary-level coursework;
5. An appropriate functional vocational evaluation;
6. Appropriate employment goals and objectives;
7. If the student is at least 18 years of age, the availability of age-appropriate instructional environments, including community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the student's transition goals and objectives;
8. Appropriate independent living goals and objectives;
9. Appropriate circumstances for facilitating a referral of a student or the student's parents to a governmental agency for services or public benefits; and
10. The use and availability of appropriate supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills and supports and services to foster the student's independence and self-determination, including a supported decision-making agreement under Texas Estates Code, Chapter 157.

b. *IEP Requirements*

Beginning not later than the first IEP to be in effect when the student turns 16 years of age, or younger if determined appropriate by the ARD committee, and updated annually thereafter, the IEP must include the following:

1. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
2. The transition services, including courses of study, needed to assist the student in reaching the postsecondary goals developed under paragraph (1) of this subsection.

The student's ARD committee shall annually review and, if necessary, update relevant portions of the student's IEP.

20 U.S.C. 1414(d)(1)(A)(i)(VIII), 1414(d)(6); 34 C.F.R. 300.320(b); Education Code 29.0111; 19 TAC 89.1055(l).

Beginning not later than the first IEP to be in effect when the student turns 14 years of age, the ARD committee must consider and, if appropriate, address the following issues in the IEP:

1. Appropriate student involvement in the student's transition to life outside the public school system;
2. Appropriate involvement in the student's transition by the student's parents and other persons invited to participate by (i) the student's parents or (ii) the school in which the student is enrolled;
3. Appropriate postsecondary education options, including preparation for postsecondary-level coursework;
4. An appropriate functional vocational evaluation;
5. Appropriate circumstances for facilitating a referral of a student or the student's parents to a governmental agency for services or public benefits, including a referral to a governmental agency to place the student on a waiting list for public benefits available to the student such as a waiver program established under the Social Security Act (42 U.S.C. Section 1396n(c)), §1915(c); and
6. The use and availability of appropriate:
    a) Supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills; and
    b) Supports and services to foster the student's independence and self-determination, including a supported decision-making agreement under Texas Estates Code, Chapter 1357.

19 TAC 89.1055(k).

a) ***Transfer of Rights***

Beginning not later than the first IEP to be in effect when the student turns 18 years of age, the ARD committee must consider and, if appropriate, address the following issues in the student's IEP:

1. Involvement in the student's transition and future by the student's parents and other persons, if the parent or other person:
    a. Is invited to participate by the student or the school in which the student is enrolled; or
    b. Has the student's consent to participate pursuant to a supported decision-making agreement under Texas Estates Code, Chapter 1357; and
2. The availability of age-appropriate instructional environments, including community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the student's transition goals and objectives.

19 TAC 89.1055(n).

b) ***Annual Review***

A student's ARD committee shall review at least annually the issues described in 19 TAC 100.1055(k), (*l*), and (n) and, if necessary, update the portions of the student's IEP that address those issues. *19 TAC 89.1055(o).*

Sec. 3. Transition and Employment Guide

Richard Milburn Academy shall utilize the transition and employment guide developed by the Texas Education Agency for use with students enrolled in special education programs and their parents, as appropriate. Specifically,

Richard Milburn Academy shall:

1. Post the transition and employment guide on the Richard Milburn Academy website;
2. Provide written information and, if necessary, assistance to a student or parent regarding how to access the electronic version of the guide at:
    a. The first ARD committee meetings at which transition is discussed; and
    b. The first ARD committee meeting at which transition is discussed that occurs after the guide is updated; and
3. On request, provide a printed copy of the guide to a student or parent.

Education Code 29.0112(a)(3).

Sec. 4. Graduation

Graduation with a regular high school diploma under 19 TAC 89.1070(b)(1), (b)(2)(D), (g)(1), (g)(2), or (g), or (g(4)(D) terminates a student's eligibility for special education services. For students who receive a diploma according to 19 TAC 89.1070(b)(2)(A), (B), or (C) or (g)(4)(A), (B), or (C), the ARD committee shall determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age requirements.

Graduation from high school with a regular diploma constitutes a change in placement that requires written prior notice to parents.

Richard Milburn Academy is not required to conduct an evaluation before termination of eligibility due to graduation from secondary school with a regular high school diploma or due to exceeding the age eligibility for a free appropriate public education under state law.

Richard Milburn Academy shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

20 U.S.C. 1414(c)(5); 34 CFR 300.102(a)(3), 300.305(e)(2); 19 TAC 89.1070.

PG.-2.403 BILINGUAL EDUCATION AND ESL

Sec.1. Requirements Under Title III of ESEA

Richard Milburn Academy shall comply with the statutory requirements regarding emergent bilingual students[1] and immigrant students upon receipt of funds under Title III of the Every Student Succeeds Act. *20 U.S.C. 6801–7014*.

Sec.2. State Policy and RICHARD MILBURN ACADEMY/TEXAS, INC. Responsibilities

It is the policy of the state that every student who has a primary language other than English and who is identified as an emergent bilingual students shall be provided a full opportunity to participate in a bilingual education or English as a second language (ESL) program.

[1] The term "emergent bilingual student" is interchangeable with "English learner" as used in federal regulations and replaces the term "limited English proficient student" formerly used in Subchapter B, Chapter 29 of the Education Code.

Richard Milburn Academy shall:

1. Identify emergent bilingual students based on criteria established by the state;
2. Provide bilingual education and ESL programs, as integral parts of its regular program;
3. Seek certified teaching personnel to ensure that emergent bilingual students are afforded full opportunity to master the essential skills and knowledge required by the state; and
4. Assess achievement for essential knowledge and skills in accordance with Chapter 29, Education Code to ensure accountability for emergent bilingual students and the schools that serve them.

19 TAC 89.1201(a).

Sec.3. Bilingual and ESL Programs

Upon the enrollment of 20 or more emergent bilingual students in any language classification in the same grade, Richard Milburn Academy shall offer a bilingual education or special language program as follows:

1. Bilingual education in prekindergarten through the elementary grades.
2. Bilingual education, instruction in English as a second language, or other TEA-approved transitional language instruction in post-elementary grades through 8th grade.
3. Instruction in English as a second language in grades 9–12.

If a program other than bilingual education must be used in prekindergarten through the elementary grades, documentation for the exception must be filed with and approved by TEA.

Education Code 29.053(c)-(d), 29.054(a).

a) ***Program Content***

Richard Milburn Academy's bilingual education program shall be a full-time program of dual-language instruction that provides for learning basic skills in the primary language of the students enrolled in the program and for carefully structured and sequenced mastery of English language skills. An ESL program shall be an intensive program of instruction in English from teachers trained in recognizing and dealing with language differences. The bilingual or ESL program shall be designed to consider the students' learning experiences and shall incorporate the cultural aspects of the students' backgrounds.

In subjects such as art, music, and physical education, emergent bilingual students shall participate fully with English-speaking students in regular classes provided in the subjects. Richard Milburn Academy shall provide students enrolled in the bilingual or ESL program a meaningful opportunity to participate fully with other students in all extracurricular activities. Elective courses may be taught in a language other than English.

Education Code 29.055(a)-(e).

b) ***Classes and Facilities***

Students enrolled in the bilingual or ESL programs shall be placed in classes with other students of approximately the same age and level of educational attainment. Richard Milburn Academy shall ensure that each student's instruction is appropriate to the student's level of educational attainment, and Richard

Milburn Academy shall keep adequate records of the educational level and progress of each student enrolled in the program.

Bilingual education and ESL programs shall be located in each regular Richard Milburn Academy campus with equitable access to all educational resources rather than in separate facilities. Richard Milburn Academy may concentrate the programs at a limited number of schools. Recent immigrant emergent bilingual students shall not remain enrolled in newcomer centers for longer than two years.

Education Code 29.057; 19 TAC 89.1235.

Sec.4. Identifying Emergent Bilingual Students

Within the first four weeks following the first day of school, the language proficiency assessment committee ("LPAC") shall determine and report to the Board the number of emergent bilingual students at each campus and shall classify each student according to the language in which the student possesses primary proficiency. The Board shall report that information to the Texas Education Agency ("TEA") before November 1 every year. *Education Code 29.053(b)*.

Sec.5. Language Proficiency Assessment Committees

Richard Milburn Academy shall establish and operate a sufficient number of LPACs to enable them to discharge their duties within four weeks of the enrollment of emergent bilingual students.

a) ***LPAC Membership***

Each LPAC shall include:

1. An appropriately certified bilingual educator (for students served through bilingual education);
2. An appropriately certified English as a second language ("ESL") educator (for students served through an ESL program);
3. A parent of the emergent bilingual students participating in a bilingual or ESL program; and
4. A campus administrator.

Richard Milburn Academy may add other trained members to the committee in any of the required categories. If Richard Milburn Academy does not have an individual in one or more of the job classifications required, another professional staff member shall be designated to serve on the LPAC.

No parent serving on the LPAC shall be an employee of Richard Milburn Academy.

All members of the LPAC, including parents, shall observe all laws and guidelines concerning student confidentiality. Richard Milburn Academy will provide orientation and training for all members of the LPAC, including parents.

Education Code 29.063; 19 TAC 89.1220(a)-(f).

b) *Duties of LPAC*

The LPAC shall:

1. Review all pertinent information on emergent bilingual students, including the home language survey, the language proficiency tests in English and the primary language, each student's achievement in content areas, and each student's emotional and social attainment;
2. Make recommendations concerning the most appropriate placement for the educational advancement of the emergent bilingual student after the elementary grades;
3. Review each emergent bilingual student's progress at the end of the school year in order to determine future appropriate placement;
4. Monitor the progress of students formerly classified as emergent bilingual who have transferred out of the bilingual education or special language program and, based on the information, designate the most appropriate placement for such students; and
5. Determine the appropriateness of a program that extends beyond the regular school year based on the needs of each emergent bilingual student.

Education Code 29.063(c).

The LPAC shall also fulfill the duties set forth at 19 TAC 89.1220(g)-(j).

c) *Home Language Survey*

For each new student enrolling for the first time in a Texas public school in any grade from prekindergarten through Grade 12, the Texas Education Agency ("TEA")-developed home language survey shall be administered. This home language survey will serve as the original and only home language survey throughout the student's educational experience in Texas public schools. If Richard Milburn Academy is required to administer a home language survey, the school shall require that the survey be signed by the student's parent for each student in prekindergarten through Grade 8 or by the student in Grades 9-12 as permitted under Education Code 29.056(a)(1). It is Richard Milburn Academy's responsibility to ensure that the student's parent understands the language used in the survey and its implications. The original copy of the survey shall be kept in the student's permanent record and transferred to any subsequent Texas public school districts in which the student enrolls

The TEA-developed home language survey shall be administered in English and a language that the parents can understand. The home language survey shall contain the following questions:

1. "What languages are used at home?"
2. "What languages are used by the child at home?"
3. "If the child had a previous home setting, which language(s) were used? If there was no previous home setting, answer Not Applicable (N/A)."

If the response on the home language survey indicates that a language other than English is used, the student shall be tested in accordance with 19 TAC 89.1226.

For students previously enrolled in a Texas public school, Richard Milburn Academy shall secure the student records, including the original home language survey and LPAC documentation as described in 19 TAC 89.1220(*l*), as applicable. All attempts to contact the sending district to request records shall be documented. Multiple attempts to obtain the student's original home language survey shall be made.

If a parent determines an error was made when completing the original home language survey, the parent may request a correction only if:

1. The student has not yet been assessed for English proficiency; and
2. Corrections are made within two calendar weeks of the student's initial enrollment date in Texas public schools.

19 TAC 89.1215.

d) Classification as an Emergent Bilingual Student

The LPAC may classify a student as emergent bilingual if:

1. The student's ability in English is so limited or the student's disabilities are so severe that assessment procedures cannot be administered;
2. The student's score or relative degree of achievement on the TEA-approved English proficiency test is below the levels established by TEA as indicative of reasonable proficiency;
3. The student's primary language proficiency score as measured by a TEA-approved test is greater than the student's proficiency in English; or
4. The LPAC determines, based on other information, including a teacher evaluation, parental viewpoint, or student interview, that the student's primary language proficiency is greater than the student's proficiency in English or that the student is not reasonably proficient in English.

Education Code 29.056(c).

e) *Parent Notice and Consent*

Not later than the 10th day after the LPAC's classification of a student as an emergent bilingual student, the LPAC shall give written notice of the classification to the student's parent. The notice must be in English and in the parent's primary language. The parents of students eligible to participate in the required bilingual education program shall be informed of the benefits of the bilingual education or special language program and that it is an integral part of the school program. *Education Code 29.056(d)*.

f) *Placement*

Placement of a student in the bilingual education or ESL program must be approved in writing by the student's parent, or through allowable alternatives described in 19 TAC 89.1220(m), in order for the student to be included in the bilingual education allotment. *19 TAC 89.1240(a)(1)*.

The parent's approval shall be considered valid for the student's continued participation in the required bilingual education or ESL program until the student meets the reclassification criteria described in 19 TAC 89.1226(i), the student graduates from high school, or a change occurs in program placement. A change between bilingual education and ESL program placement requires new parental approval using the TEA-developed change in placement letter. *19 TAC 89.1240(a)(2)*.

If a parent denies program placement at any point, the TEA-developed denial letter shall be used to ensure parents are informed of the implications of program denial, including understanding that the child will continue to be identified as an emergent bilingual student and will continue to be assessed annually using the Texas English Language Proficiency Assessment System ("TELPAS") until reclassification criteria have been met. *19 TAC 89.1240(a)(3)*.

Pending completion of the identification process, receipt of LPAC documentation for transferring students, or parental approval of an identified emergent bilingual student's placement into the bilingual education or ESL program recommended by the LPAC, Richard Milburn Academy shall place the student in the recommended program. However, only emergent bilingual students with parental approval for program participation will be included in the bilingual education allotment. *19 TAC 89.1220(j)*.

Richard Milburn Academy may place a student in or exit a student from a program without written parent approval if:

1. The student is 18 years of age or has had the disabilities of minority removed;
2. The parent provides approval by telephone or email that is documented in writing and retained; or
3. An adult recognized by Richard Milburn Academy as standing in parental relation to the student provides written approval. This may include a foster parent, or employee of a state or governmental agency with temporary possession or control of the student.

19 TAC 89.1220(m).

g) *Participation of Non-Emergent Bilingual Students*

With the approval of Richard Milburn Academy and a student's parent, a student who is not an emergent bilingual student may participate in a bilingual education program. The number of participating students who are not emergent bilingual students may not exceed 40% of the number of students enrolled in the program. *Education Code 29.058; 19 TAC 89.1233(b)-(c)*.

h) *Students with Disabilities*

For students with disabilities, Richard Milburn Academy shall utilize the state's criteria for identification of emergent bilingual students as described in 19 TAC 89.1226(f) and shall establish placement procedures that ensure the placement recommendation by the LPAC, in conjunction with the admission, review, and dismissal ("ARD") committee, in a bilingual education or English as a second language program is not refused based on the student's disabling condition.

LPAC members shall meet in conjunction with ARD committee members to review and provide recommendations with regard to the educational needs of each emergent bilingual student who qualifies for services in the special education program.

19 TAC 89.1230.

Sec.6. Cooperation Among Districts

Richard Milburn Academy may join with one or more other public schools to provide the required

bilingual and special language programs. The availability of the programs shall be publicized throughout the schools involved.

Richard Milburn Academy may allow a nonresident emergent bilingual student to enroll in or attend its bilingual education or special language program if the student's district of residence does not provide an appropriate program. The district of residence shall pay the tuition for the student.

Education Code 29.059; *19 TAC 89.1205(e)*.

Sec.7. Summer Program

If Richard Milburn Academy is required to offer a bilingual education or special language program, it shall offer a voluntary summer school program for emergent bilingual students who will be eligible for admission to kindergarten or first grade at the beginning of the next school year. The program shall be implemented in accordance with the requirements of 19 TAC 89.1250. Enrollment in the program is optional with the parent of the child. *Education Code 29.060*; *19 TAC 89.1250.*

a) *Other Programs*

Richard Milburn Academy may establish on a full- or part-time basis other summer school, extended day, or extended week bilingual or special language programs for emergent bilingual students and may join with other districts in establishing such programs. Neither the summer program nor the other programs may substitute for the program to be provided during the regular school year. *Education Code 29.060(d)-(e)*.

Sec.8. Personnel

Teachers assigned to bilingual education and ESL programs must be appropriately certified in bilingual education or ESL, respectively. *Education Code 29.061(b), (c)*.

If Richard Milburn Academy is unable to hire a sufficient number of teachers with bilingual teaching or ESL certificates, Richard Milburn Academy may file an application for exception with TEA in accordance with 19 TAC 89.1207. *Education Code 29.054(b); 19 TAC 89.1207*.

Sec.9. Emergent Bilingual Students and State Assessments

In kindergarten through grade 12, an emergent bilingual student shall participate in state assessments in accordance with 19 TAC 101.1001-.1007.

Sec.10. Program Exit

Richard Milburn Academy may transfer an emergent bilingual student out of a bilingual education or special language program for the first time or a subsequent time if the student is able to participate equally in a regular all-English instructional program as determined by:

1. TEA-approved tests administered at the end of each school year to determine the extent to which

the student has developed oral and written language proficiency and specific language skills in English;
2. Satisfactory performance on the reading assessment instrument under Education Code 39.023(a) or an English language arts assessment instrument under Education Code 39.023(c), as applicable, with the assessment instrument administered in English, or, if the student is enrolled in the first or second grade, an achievement score at or above the 40th percentile in the reading and language arts sections of an English standardized test approved by the TEA; and
3. TEA-approved criterion-referenced tests and the results of a subjective teacher evaluation.

Education Code 29.056(g).

a) *Notice to Parents*

Richard Milburn Academy shall notify the student's parent in writing of the student's reclassification as English proficient and his or her exit from the bilingual education or English as a second language program and acquire written approval as required under Education Code 29.056(a). Students meting exit requirements who have been recommended for exit by the LPAC may only exit the bilingual education or ELS program with parental approval. Parental approval is also required for students participating in a dual language immersion program who have met reclassification criteria and for whom the LPAC has recommended continued program participation as an English proficient student. *19 TAC 89.1240(b)*.

b) *Evaluation of Transferred Students and Reenrollment*

The LPAC committee shall reevaluate a student who is transferred out of a bilingual education or special language program if the student earns a failing grade in a subject in the foundation curriculum during any grading period in the first two school years after the student is transferred to determine whether the student should be reenrolled in a bilingual education or special language program.

During the first two school years after a student is transferred out of a bilingual education or special language program, the LPAC shall review the student's performance and consider:

1. The total amount of time the student was enrolled in bilingual education or special language programs;
2. The student's grades each grading period in each subject in the foundation curriculum;
3. The student's performance on state assessment instruments;
4. The number of credits the student has earned toward high school graduation, if applicable; and
5. Any disciplinary actions taken against the student under the Student Code of Conduct.

After the evaluation, the LPAC may require intensive instruction for the student or reenroll the student in a bilingual education or special language program.

Education Code 29.0561.

Sec.11. PEIMS Reporting Requirements

If required to implement a bilingual education or special language program, Richard Milburn Academy shall include the following information in its PEIMS report:

1. Demographic information on students enrolled in Richard Milburn Academy's bilingual education or special language programs;
2. The number and percentage of students enrolled in each instructional model of a bilingual education or special language program offered by Richard Milburn Academy; and
3. The number and percentage of students identified as emergent bilingual students who do not receive specialized instruction.

Education Code 29.066(a).

Sec.12. Program Evaluation

If Richard Milburn Academy is required to implement a bilingual education or ESL program, it shall conduct an annual evaluation in accordance with Education Code 29.053, collecting a full range of data to determine program effectiveness to ensure student academic success. The annual evaluation report shall be presented to the Board before November 1 of each school year, and the report shall be retained at the administrative level in accordance with Education Code 29.062.

The annual report of educational performance shall reflect:

1. The academic progress in the language(s) of instruction for emergent bilingual students by bilingual education and/or ESL program model;
2. The extent to which emergent bilingual students are developing English proficiency by bilingual education and/or ESL program model, including proficiency in the partner language for students participating in a dual language immersion program model;
3. The number of students who have been reclassified as English proficient and their continued academic progress after reclassification; and
4. The number of teachers and aides trained and the frequency, scope, and results of the professional development in approaches and strategies that support second language acquisition.

Richard Milburn Academy shall report to parents the progress of their child in acquiring English as a result of participation in the program offered to emergent bilingual students.

19 TAC 89.1265.

PG.-2.404 TITLE I SERVICES

Sec. 1. RECEIPT OF TITLE I FUNDS

Richard Milburn Academy may receive funds under Title I, Part A only if Richard Milburn Academy conducts outreach to all parents and family members and implements programs, activities, and procedures for the involvement of parents in programs assisted under Title I, Part A, consistent with 20 U.S.C. 6318. Such programs, activities, and procedures shall be planned and implemented with meaningful consultation with parents of participating children. *20 U.S.C. 6318(a)(1)*.

a. Richard Milburn Academy Policy

If Richard Milburn Academy receives Title I, Part A funds, Richard Milburn Academy shall develop jointly with, agree on with, and distribute to parents and family members of participating children a written parent and family engagement policy. The policy shall be incorporated into a school plan developed under 20 U.S.C. 6312, establish Richard Milburn Academy's expectations and objectives for meaningful parent and family involvement, and describe how Richard Milburn Academy will:

1. Involve parents and family members in jointly developing the district plan under 20 U.S.C. 6312, and the development of support and improvement plans under paragraphs (1) and (2) of 20 U.S.C. 6311(d);
2. Provide the coordination, technical assistance, and other support necessary to assist and build the capacity of all participating schools within Richard Milburn Academy in planning and implementing effective parent and family involvement activities to improve student academic achievement and school performance, which may include meaningful consultation with employers, business leaders, and philanthropic organizations, or individuals with expertise in effectively engaging parents and family members in education;
3. Coordinate and integrate parent and family engagement strategies under Title I, Part A with parent and family engagement strategies, to the extent feasible and appropriate, withother relevant federal, state, and local laws and programs;
4. Conduct, with the meaningful involvement of parents and family members, an annual evaluation of the content and effectiveness of the parent and family engagement policy in improving the academic quality of all schools served under Title I, Part, A, including identifying:
    a. Barriers to greater participation by parents in activities authorized by section 6318 (with particular attention to parents who are economically disadvantaged, are disabled, have limited English proficiency, have limited literacy, or are of any racial or ethnic minority background);
    b. The needs of parents and family members to assist with the learning of their children, including engaging with school personnel and teachers; and
    c. Strategies to support successful school and family interactions;
5. Use the findings of the above evaluation to design evidence-based strategies for more effective parental involvement, and to revise, if necessary, the parent and family engagement policies described in section 6318; and
6. Involve parents in the activities of the schools served under Title I, Part A, which may include establishing a parent advisory board comprised of a sufficient number and representative group of parents or family members served by Richard Milburn Academy to adequately represent the needs of the population served by Richard Milburn Academy for the purposes of developing, revising, and reviewing the parent and family engagement policy.

20 U.S.C. 6318(a)(2).

b. Campus Policy

Each Richard Milburn Academy campus served under Title I, Part A shall jointly develop with, and distribute to, parents and family members of participating children a written parent and family involvement policy, agreed on by such parents, that shall describe the means for carrying out the requirements of 20 U.S.C. 6318(c)–(f). Parents shall be notified of the policy in an understandable and uniform format and, to the extent practicable, provided in a language the parents can understand. Such policy shall be made available to the local community and updated periodically to meet the changing needs of parents and the school. *20 U.S.C. 6318(b)*.

c. Comparability of Services

Richard Milburn Academy may receive Title I, Part A funds for any fiscal year only if the Texas Education Agency (TEA) finds that Richard Milburn Academy has maintained its fiscal effort in accordance with 20 U.S.C. 7901. *20 U.S.C. 6321(a)*.

Richard Milburn Academy shall use federal funds received under Title I, Part A only to supplement, not supplant, the funds that would, in the absence of such federal funds, be made available from state and local sources for the education of students participating in programs assisted under Part A. *20 U.S.C. 6321(b)*.

Richard Milburn Academy may receive Title I, Part A funds only if state and local funds will be used in Title I, Part A schools to provide services that, taken as a whole, are at least comparable to services in schools that are not receiving Title I, Part A funds. Richard Milburn Academy may meet this requirement on a grade-span basis or a school-by-school basis.

For purposes of determining comparability, Richard Milburn Academy may exclude state and local funds expended or language instruction educational programs and the excess costs of providing services to children with disabilities as determined by Richard Milburn Academy.

Richard Milburn Academy will be considered to have met the comparability requirements if Richard Milburn Academy has filed with TEA a written assurance that Richard Milburn Academy has established and implemented:

1. A district-wide salary schedule;
2. A policy to ensure equivalence among schools in teachers, administrators, and other staff; and
3. A policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

20 U.S.C. 6321(c).

d. Prohibited Use of Funds

No funds received through the Elementary and Secondary Education Act (ESEA) may be used:

1. For construction, renovation, or repair of any school facility, except as authorized under ESEA;
2. For transportation unless otherwise authorized under ESEA;
3. To develop or distribute materials, or operate programs or courses of instruction directed at youth, that are designed to promote or encourage sexual activity, whether homosexual or heterosexual;
4. To distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;
5. To provide sex education or HIV-prevention education in schools unless that instruction is age appropriate and includes the health benefits of abstinence; or
6. To operate a program of contraceptive distribution in schools.

20 U.S.C. 7906.

Sec. 2. HOMELESS CHILDREN

As a condition of receiving funds under the McKinney-Vento Homeless Education Assistance Improvements Act, Richard Milburn Academy shall serve homeless children according to their best

interests. *42 U.S.C. 11432*.

Sec. 3. FOSTER CARE TRANSPORTATION

As a condition to receiving funds under Title I, Part A, Richard Milburn Academy shall collaborate with the state or local child welfare agency to:

1. Ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with 42 U.S.C. 675(4)(A) and to the extent required by law; and
2. Ensure that, if there are additional costs incurred in providing transportation to maintain children in foster care in their schools of origin, Richard Milburn Academy will, to the extent required by law, provide transportation to the school of origin if:
   a. The local child welfare agency agrees to reimburse Richard Milburn Academy for the cost of transportation;
   b. Richard Milburn Academy agrees to pay the cost of transportation; or
   c. Richard Milburn Academy and the local welfare agency agree to share the cost of such transportation.

20 U.S.C. 6312(c)(5).

TPCSA Model Board Policy Series

Module 3 – Students

Richard Milburn Academy
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Adopted by Board of Directors
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PG-3.101 EQUAL EDUCATIONAL OPPORTUNITY

Sec. 1. STATEMENT OF NONDISCRIMINATION

Richard Milburn Academy does not exclude from participation in, deny the benefits of, or subject to discrimination on the basis of race, religion, color, national origin, sex, age, disability, or relationship or association with an individual with a disability in providing educational services, activities, and programs, including vocational and career technology programs, in accordance with Title VI of the Civil Rights Act of 1964, as amended; the Individuals with Disabilities Education Act, as amended; Title IX of the Educational Amendments of 1972, as amended; the Americans with Disabilities Act ("ADA"), as amended, and Section 504 of the Rehabilitation Act of 1973, as amended.

Sec. 2. GRIEVANCE PROCEDURES

Richard Milburn Academy shall adopt public grievance procedures for prompt and equitable resolution of student complaints alleging discrimination under applicable law. *34 CFR 106.8 (Title IX); 34 CFR 104.7 (Section 504)*. The Superintendent or designee shall ensure that such grievance procedures are distributed and otherwise made available to parents and students.

a) **Title IX Coordinator**

Richard Milburn Academy designates the following person(s) to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended: Dr. Heidi Lambert, Director of Special Populations, 802 N. 8th Street, Killeen, TX 76541, (346) 522-8685 and TitleIXCoordinator@rma-tx.org.

b) **ADA/Section 504 Coordinator**

Reports of discrimination based on disability may be directed to the ADA/Section 504 Coordinator. Richard Milburn Academy designates the following person(s) to coordinate its efforts to comply with the requirements of Section 504 of the Rehabilitation Act of 1973, as amended: Dr. Heidi Lambert, Director of Special Populations, 802 N. 8th Street, Killeen, TX 76541, (346) 522-8685 and ADA/Section504Coordinator@rma-tx.org.

c) **Coordinator for Purposes of Compliance with Other Nondiscrimination Laws**

The following person(s) have been designated to coordinate Richard Milburn Academy's compliance with all other antidiscrimination laws: Christina Averill, HR Coordinator, 401 E. Sonterra Blvd., Suite 375 San Antonio, TX 78258, (830) 557-6181, and hr@rma-tx.org.

Sec. 3. EQUAL EDUCATIONAL OPPORTUNITY

Richard Milburn Academy shall provide necessary services and supports to provide students equal access to educational opportunities. Certain instructional or other accommodations, including on state-mandated assessments, may be made when necessary, when allowable, and when these accommodations do not modify the rigor or content expectations of a subject, course, or assessment.

If Richard Milburn Academy has reason to believe that a student has a disability that may require additional services and supports in order for the student to receive an appropriate education as this term is defined by law, Section 504 and/or the Individuals with Disabilities Education Act ("IDEA") shall govern the evaluation, services, and supports provided by Richard Milburn Academy.

Sec. 4. COMPLAINTS

Except as otherwise provided in Policy or Procedure, allegations of unlawful discrimination, prohibited harassment, or retaliation shall be made under PG-3.2 (Freedom from Discrimination, Harassment, and Retaliation).

Complaints concerning identification, evaluation, or educational placement of a student with a disability within the scope of Section 504 shall be filed under the General Provisions of PG-3.30, except that the deadline for filing an initial Level One grievance shall be fifteen (15) school days.

Sec. 5. RETALIATION

No RMA employee may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation or proceeding under this policy. *34 CFR 100.7(e) (Title VI), 104.61 (Section 504), 106.71 (Title IX).*

Sec. 6. DISABILITY DISCRIMINATION

Under the ADA, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of Richard Milburn Academy, or be subjected to discrimination by Richard Milburn Academy. *42 U.S.C.A. 12132; 28 CFR 35.130.*

Under Section 504, no otherwise qualified individual with a disability shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

a) Student with a Disability

A "student with a disability" is one who has a physical or mental impairment that substantially limits one or more of the student's major life activities, has a record of having such an impairment, or is being regarded as having such an impairment.

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

A student meets the requirement of being "regarded as" having an impairment if the student establishes that he or she has been subjected to a prohibited action because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. This provision does not apply to impairments that are transitory or minor. A transitory impairment one with an actual or expected duration of six months or fewer.

29 U.S.C. 705(20)(B), 42 U.S.C. 12102(1), (3)–(4).

b) Qualified Individual with a Disability

The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by Richard Milburn Academy. *42 U.S.C. 12131(2).*

c) Major Life Activities

"Major life activities" include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. "Major life activity" also includes the operation of major bodily functions, including functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. *42 U.S.C. 12102(2).*

d) Reasonable Modification

Richard Milburn Academy shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless Richard Milburn Academy can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. *28 CFR 35.130(b)(7).*

e) Direct Threat

"Direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services as provided below.

Richard Milburn Academy is not required to permit an individual to participate in or benefit from the services, programs, or activities of Richard Milburn Academy when that individual poses a direct threat to the health or safety of others.

In determining whether an individual poses a direct threat to the health or safety of others, Richard Milburn Academy must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain:

1. The nature, duration, and severity of the risk;
2. The probability that the potential injury will actually occur; and
3. Whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

28 CFR 35.139.

f) Free Appropriate Public Education ("FAPE")

Richard Milburn Academy shall provide a free appropriate public education to each qualified student with a disability within Richard Milburn Academy's jurisdiction, regardless of the nature or severity of the student's disability. A student with a disability is "qualified" if he or she is between the ages of three and 21. An appropriate education is the provision of regular or special education and related services that are:

1. Designed to meet the student's individual educational needs as adequately as the needs of students who do not have disabilities are met; and
2. Based on adherence to procedures that satisfy federal requirements for educational setting, evaluation and placement, and procedural safeguards, as set forth below.

34 CFR 104.33(b).

g) Educational Setting

Richard Milburn Academy shall place a student with a disability in the regular educational environment, unless Richard Milburn Academy demonstrates that education in the regular environment with the use of supplemental aids and services cannot be achieved satisfactorily. *34 CFR 104.34(a).*

In providing or arranging for nonacademic and extracurricular services and activities, Richard Milburn Academy shall ensure that a student with a disability participates with students who do not have disabilities to the maximum extent appropriate to the needs of the student with a disability. *34 CFR 104.34(b), 104.37.*

h) Evaluation and Placement

Richard Milburn Academy shall establish standards and procedures for the evaluation and placement of persons who, because of disability, need or are believed to need special education and related services. Richard Milburn Academy shall conduct an evaluation before the initial placement, or any significant change in placement, of the student. *34 CFR 104.35*.

i) Military Dependents

In compliance with the requirements of Section 504, and with Title II of the ADA, Richard Milburn Academy shall make reasonable accommodations and modifications to address the needs of incoming military dependents with disabilities, subject to an existing Section 504 or Title II Plan, to provide the student with equal access to education. This does not preclude Richard Milburn Academy from performing subsequent evaluations to ensure appropriate placement of the student. *Education Code 162.002 art. V, C.*

j) Procedural Safeguards

Richard Milburn Academy shall establish a system of procedural safeguards with respect to the identification, evaluation, and educational placement of persons who need or are believed to need special instruction or related services.

The system shall include notice, an opportunity for the student's parent or guardian to examine relevant records, an impartial hearing with the opportunity for participation by the student's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of IDEA is one means of meeting this requirement. *34 CFR 104.36.*

Sec. 7. HOMELESS CHILDREN

Richard Milburn Academy shall adopt policies and practices to ensure that homeless children are not stigmatized or segregated on the basis of their homeless status.

a) *Liaison*

Richard Milburn Academy shall designate an appropriate staff person as the liaison for homeless children. Richard Milburn Academy shall inform school personnel, service providers, and advocates working with homeless families of the duties of the liaison. *42 U.S.C. 11432(g)(1)(J)(i), (ii), (g)(6)(B)*.

Sec. 8. DISCRIMINATION ON THE BASIS OF SEX

No person shall, on the basis of sex, be excluded from participation in, denied the benefits of, or be subjected to discrimination by Richard Milburn Academy. *20 U.S.C. 1681(a)*.

Richard Milburn Academy shall not provide any course or otherwise carry out any of its educational programs or activities separately on the basis of sex, or require or refuse participation therein on the basis of sex, including health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses. *34 CFR 106.34*.

a) Sexual Harassment

Sexual harassment of students is discrimination on the basis of sex under Title IX.

b) Separate Facilities

Richard Milburn Academy may provide separate toilet, locker room, and shower facilities on the basis of sex, but the facilities provided for one sex shall be comparable to the facilities provided for the other sex. *34 CFR 106.33*.

c) Human Sexuality Classes

Portions of classes in secondary school that deal exclusively with human sexuality may be conducted in separate sessions for boys and girls.

d) Vocal Music Activities

Richard Milburn Academy may make requirements based on vocal range or quality thatmay result in a chorus or choruses of one or predominantly one sex.

34 CFR 106.34.

e) Single-Sex Programs

Richard Milburn Academy shall not, on the basis of sex, exclude any student from admission to an institution of vocational education operated by Richard Milburn Academy. *34 CFR 106.35.*

f) Pregnancy and Marital Status

Richard Milburn Academy shall not apply any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex. *34 CFR 106.40*

g) Physical Education Classes and Contact Sports

Richard Milburn Academy may group students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.

Richard Milburn Academy may separate students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact.

34 CFR 106.34.

h) Athletic Programs

Richard Milburn Academy shall not discriminate, on the basis of sex, in interscholastic or intramural athletics or provide any such athletics separately on such basis.

i. Single-Sex Teams

Richard Milburn Academy may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but not for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try out for the team offered unless the sport involved is a contact sport.

ii. Equal Athletic Opportunities

Richard Milburn Academy shall provide equal interscholastic and/or intramural athletic opportunity for members of both sexes. The following factors will be considered in determining whether Richard Milburn Academy provides equal athletic opportunities:

1. Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;
2. The provision of equipment and supplies;
3. Scheduling of games and practice time;
4. Travel and per diem allowance;
5. Opportunity to receive coaching and academic tutoring;
6. Assignment and compensation of coaches and tutors;
7. Provision of locker rooms, practice and competitive facilities;
8. Provision of medical and training facilities and services;
9. Provision of housing and dining facilities and services; and
10. Publicity.

34 CFR 106.41.

Sec. 9. SECTION 504 COMMITTEES

Richard Milburn Academy shall form Section 504 committees as necessary. The Section 504 coordinator and members of each Section 504 committee shall receive training in the procedures and requirements for identifying and providing educational and related services and supports to a student who has a disability that results in a substantial limitation of a major life activity.

Each Section 504 committee shall be composed of a group of persons knowledgeable about the student, the meaning of the evaluation data, placement options, and the legal requirements regarding least restrictive environment and comparable facilities for students with disabilities.

a) Referrals

If a teacher, school counselor, administrator, or other Richard Milburn Academy employee has reason to believe that a student may have a disability as defined by Section 504, Richard Milburn Academy shall evaluate the student. A student may also be referred for evaluation by the student's parent.

b) Notice and Consent

Richard Milburn Academy shall seek written parental consent prior to conducting a formal evaluation. Ordinary observations in the classroom or other school setting shall not require prior parental consent.

c) Evaluation and Placement

The results of an evaluation shall be considered before any action is taken to place a student with a disability or make a significant change in placement in an instructional program. The Superintendent shall ensure that Richard Milburn Academy's procedures for tests and other evaluation materials comply with the minimum requirements of law. In interpreting evaluation data and when making decisions related to necessary services and supports, each Section 504 committee shall carefully consider and document information from a variety of sources in accordance with law.

d) Review and Reevaluation Procedure

To address the periodic reevaluation requirement of law, Richard Milburn Academy shall adhere to the reevaluation timelines in the IDEA regulations.

A parent, teacher, or other Richard Milburn Academy employee may request a review of a student's services and supports at any time, but a formal reevaluation shall generally occur no more frequently than once a year.

e) Examining Records

A parent shall make any request to review his or her child's education records to the campus

principal or other identified custodian of records.

f) Right to Impartial Hearing

A parent shall be given written notice of the due process right to an impartial hearing if the parent has a concern or complaint about Richard Milburn Academy's actions regarding the identification, evaluation, or educational placement of a student with a disability. The impartial hearing shall be conducted by a person who is knowledgeable about Section 504 issues and who is not employed by Richard Milburn Academy or related to a member of the Board in a degree that would be prohibited under the nepotism statute. The impartial hearing officer is not required to be an attorney. Richard Milburn Academy and the parent shall be entitled to legal representation at the impartial hearing. *34 CFR 104.36.*

g) Records Retention

Records specific to identification, evaluation, and placement as these pertain to Section 504 shall be retained by Richard Milburn Academy in accordance with law and Richard Milburn Academy's local records retention schedules.

Sec. 10. SERVICE ANIMALS (FEDERAL LAW REQUIREMENTS)

"Service animal" means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition, unless otherwise allowed by Board Policy. The work or tasks performed by a service animal must be directly related to the handler's disability. *28 C.F.R. 35.104*.

a) Policies, Practices, or Procedures

Richard Milburn Academy shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability, unless Richard Milburn Academy can demonstrate that the service animal is out of control and the service animal's handler does not take effective action to control it or the service animal is not housebroken. *28 C.F.R. 35.136(a), (b).*

b) Access

Individuals with disabilities shall be permitted to be accompanied by their service animal in all areas of Richard Milburn Academy facilities where members of the public, participants in services, programs or activities, or invitees, as relevant, are allowed to go. *28 C.F.R. 35.136(g).*

i. Exceptions

Richard Milburn Academy may ask an individual with a disability to remove a service animal from the premises if:

1. The service animal is out of control and the service animal's handler does not take effective action to control it; or
2. The service animal is not housebroken.

28 C.F.R. 35.136(b).

Richard Milburn Academy is not required to permit an individual to participate in or benefit from the services, programs, or activities of Richard Milburn Academy when that individual poses a direct threat to the health or safety of others. *28 C.F.R. 35.139*.

If Richard Milburn Academy properly excludes a service animal, it shall give the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises. *28 C.F.R. 35.136(c)*.

ii. Animal Under Handler's Control

A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control, whether by voice control, signals, or other effective means. *28 C.F.R. 35.136(d)*.

c) Inquiries

Richard Milburn Academy shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. Richard Milburn Academy may ask if the animal is required because of a disability and what work or task the animal has been trained to perform.

Richard Milburn Academy shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.

Generally, Richard Milburn Academy may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability). *28 C.F.R. 35.136(f)*.

d) Care or Supervision of Animal

Richard Milburn Academy is not responsible for the care or supervision of a service animal. *28 C.F.R. 35.136(e)*.

e) Surcharges

Richard Milburn Academy shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets.

An individual with a disability may be charged for damage caused by his or service animal if Richard Milburn Academy normally charges individuals for the damage they cause. *28 C.F.R. 35.136(h)*.

f) Miniature Horses

Richard Milburn Academy shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.

iii. *Assessment Factors*

In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, Richard Milburn Academy shall consider:

1. The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
2. Whether the handler has sufficient control of the miniature horse;
3. Whether the miniature horse is housebroken; and
4. Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

iv. *Other Requirements*

Provisions at 28 CFR 35.136(c) through (h) shall also apply to miniature horses.

28 C.F.R. 35.136(i).

Sec. 11. ASSISTANCE ANIMALS (STATE LAW REQUIREMENTS)

"Assistance animal" means a canine that is specially trained or equipped to help a person with a disability and that is used by a person with a disability. *Human Resources Code 121.002(1)*.

a) Assistance Animal Access

No person with a disability may be denied admittance to Richard Milburn Academy because of the person's disability or may be denied the use of an assistance animal. Richard Milburn Academy may not limit the use of Richard Milburn Academy facilities to a designated class of persons and thereby prohibit the use of Richard Milburn Academy facilities by persons with disabilities who, except for their use of assistance animals, would fall within the designated class. An assistance animal in training shall not be denied admittance to Richard Milburn Academy when accompanied by an approved trainer. *Human Resources Code 121.003(c), (e), (i)*.

b) Harassment and Harm Prohibited

A person may not assault, harass, interfere with, kill, or injure in any way, or attempt to assault, harass, interfere with, kill, or injure in any way, an assistance animal. "Harass" means any conduct that is directed at an assistance animal that impedes or interferes with, or is intended to impede or interfere with, the animal's performance of its duties or places a person with a disability who is using an assistance animal, or a trainer who is training an assistance animal, in danger of injury.

A person is not entitled to make demands or inquiries relating to the qualifications or certifications of a service animal for purposes of admittance to a Richard Milburn Academy facility except to determine the basic type of assistance provided by the service animal to a person with a disability. If a person's disability is not readily apparent, a staff member or administrator may inquire about whether the service animal is required because the person has a disability and what type of work or task the service animal is trained to perform. *Human Resources Code 121.002, .003(j)-(l)*.

c) Transportation

Richard Milburn Academy may not refuse to provide transportation to or from school and/or school related activities to a student solely because of the student's disability, nor may a student be required to pay a fee because of his or her use of an assistance animal. *Human Resources Code 121.003(b)*.

d) Responsibilities of Students with Disabilities

A student with a disability who uses an assistance animal for assistance in travel is liable for any damages done to the premises or facilities by the animal.

A student with a disability who uses an assistance animal for assistance in travel or auditory awareness shall keep the animal properly harnessed or leashed, and a person who is injured by the animal because of the failure of a person with a disability to properly harness orleash the animal is entitled to maintain a cause of action for damages in a court of competent jurisdiction under the same law applicable to other causes brought for the redress of injuries caused by animals. *Human Resources Code 121.005*.

PG-3.102 PROHIBITED DISCRIMINATION, RETALIATION, AND HARASSMENT

Sec. 1. NONDISCRIMINATION STATEMENT

Richard Milburn Academy prohibits discrimination, including harassment, against any student on the basis of race, color, religion, sex, gender, national origin, disability, age, or any other basis prohibited by law. Richard Milburn Academy further prohibits retaliation against anyone involved in the complaint process.

Sec. 2. GENERAL NON-DISCRIMINATION POLICY

a) Prohibited Conduct

In this policy, the term "prohibited conduct" includes discrimination, harassment, and/or retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

i. Prohibited Discrimination

Discrimination against a student is defined as conduct directed at a student on the basis of race, color, religion, sex, gender, national origin, disability, age, or on any other basis prohibited by law, that adversely affects the student.

ii. Prohibited Harassment

Prohibited harassment of a student is defined as physical, verbal, or nonverbal conduct based on the student's race, color, religion, sex, gender, national origin, disability, age, or any other basis prohibited by law that is so severe, persistent, or pervasive that the conduct:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

Examples of prohibited harassment may include offensive or derogatory language directed at another person's religious beliefs or practices, accent, skin color, or need for accommodation; threatening or intimidating conduct; offensive jokes; name calling, slurs, or rumors; physical

aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other negative stereotypes; or other kinds of aggressive conduct such as theft or damage to property.

iii. *Prohibited Gender-Based Harassment*

Gender-based harassment includes physical, verbal, or nonverbal conduct based on a student's gender, the student's expression of characteristics perceived as stereotypical for the student's gender, or the student's failure to conform to stereotypical notions of femininity or masculinity. Gender-based harassment is considered prohibited harassment if the conduct is so severe, persistent, or pervasive that it:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

Examples of gender-based harassment, regardless of the student's or alleged harasser's actual or perceived gender, may include offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; threatening or intimidating conduct; or other kinds of aggressive conduct such as theft or damage to property.

iv. *Prohibited Retaliation*

Richard Milburn Academy prohibits retaliation against a student alleged to have experienced discrimination or harassment or another student who, in good faith, makes a report, serves as a witness, or otherwise participates in an investigation.

Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.

v. *Prohibition on Discrimination in Student Dress or Grooming Policy*

Richard Milburn Academy's dress and grooming policy, including dress and grooming policies for extracurricular activities, may not discriminate against a hair texture or protective hairstyle commonly or historically associated with race. For purposes of this policy, the term "protective hairstyle" includes braids, locks, and twists.

b) False Claims

A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a Richard Milburn Academy investigation regarding discrimination or harassment is subject to appropriate discipline.

c) Reporting Procedures (Non-Sexual Harassment)

Any student who believes that he or she has experienced prohibited conduct or believes that another student has experienced prohibited conduct should immediately report the alleged acts to a teacher, counselor, Principal, or the appropriate Compliance Coordinator designated by Richard Milburn Academy.

Any Richard Milburn Academy employee who suspects or receives notice that a student or group of students has or may have experienced prohibited conduct shall immediately notify the appropriate Compliance Coordinator listed in this policy, and take any other steps required by this policy.

The procedures in this Section 2 will apply to all allegations of prohibited conduct otherthan allegations of harassment prohibited by Title IX. For allegations of sex-based harassment that, if proved, would meet the definition of sexual harassment under Title IX (including sexual harassment), see the procedures below at Section 3, Sexual Harassment Prohibited – TitleIX Policy.

d) Definition of Compliance Coordinator

For the purposes of this policy, Compliance Coordinators are the Title IX Coordinator, the ADA/Section 504 coordinator, and the Superintendent or designee.

vi. Title IX Coordinator

The Title IX Coordinator is responsible for coordinating Richard Milburn Academy's efforts to comply with its responsibilities under Title IX with respect to discrimination based on sex, including sexual harassment. Richard Milburn Academy has designated as the following individual as the Title IX Coordinator: Dr. Heidi Lambert, Director of Special Populations, 802 N. 8th Street, Killeen, TX 76541, (346) 522-8685, and TitleIXCoordinator@rma-tx.org.

vii. ADA/Section 504 Coordinator

Reports of discrimination based on disability may be directed to the ADA/Section 504 Coordinator. Richard Milburn Academy designates the following person to coordinate its efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973, as amended: Dr. Heidi Lambert, Director of Special Populations, 802 N. 8th Street, Killeen, TX 76541, (346) 522-8685 and ADA/Section504Coordinator@rma-tx.org.

viii. Coordinator for Purposes of Compliance with Other Nondiscrimination Laws

The following person(s) have been designated to coordinate Richard Milburn Academy's compliance with all other antidiscrimination laws; Christina Averill, HR Coordinator, 401 E. Sonterra Blvd., Suite 375, San Antonio, TX 78258, (830) 557-6181, and hr@rma-tx.org.

e) Alternate Reporting Procedures

A student shall not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning prohibited conduct, including reports against the

Title IX Coordinator or ADA/Section 504 Coordinator, may be directed to the Superintendent or designee. Reports concerning prohibited conduct by the Superintendent or designee may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.

f) Timely Reporting

Reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to promptly report may impair Richard Milburn Academy's ability to investigate and address the prohibited conduct.

g) Notice to Parents

A Richard Milburn Academy official or designee shall promptly notify the parents of any student alleged to have experienced prohibited conduct by a Richard Milburn Academy employee or another adult.

h) Investigation

Richard Milburn Academy may request, but shall not insist upon, a written report. If a report is made orally, the school official shall reduce the report to written form.

Upon receipt or notice of a report, the appropriate Compliance Coordinator shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the Compliance Coordinator shall immediately authorize or undertake an investigation, regardless of whether a criminal or regulatory investigation regarding the same or similar allegations is pending.

If appropriate, Richard Milburn Academy shall promptly take interim action calculated to prevent prohibited conduct during the course of an investigation.

The investigation may be conducted by a Compliance Coordinator or designee, or by a third party designated by Richard Milburn Academy, such as an attorney. When appropriate, the Principal shall be involved in or informed of the investigation.

The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

i) Concluding the Investigation

Absent extenuating circumstances, the investigation should be completed within ten school business days from the date of the report. If the investigator determines that additional time is needed to complete a thorough investigation of the complaint and/or issue a report, he or she shall inform the complainant in writing of the necessity to extend the time for investigating or responding and a specific date by which the report will be issued.

The investigator shall prepare a written report of the investigation. The report shall be filed with the Compliance Coordinator overseeing the investigation.

j) School Action

If the results of an investigation indicate that prohibited conduct occurred, Richard Milburn Academy shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct.

Richard Milburn Academy may take action based on the results of an investigation, even if the conduct did not rise to the level of prohibited or unlawful conduct.

k) Confidentiality

To the greatest extent possible, Richard Milburn Academy shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.

l) Appeal

A student who is dissatisfied with the outcome of the investigation may appeal through Board Policy Series Module 1-Governance PG-1.10 (Parent and Student Complaints and Grievances), beginning at the appropriate level. A student shall be informed of his or her right to file a complaint with the United States Department of Education Office for Civil Rights.

m) Records Retention

Retention of records shall be in accordance with the applicable schedule published by the Texas State Library and Archives Commission.

*S*ec. 3. SEXUAL HARASSMENT PROHIBITED – TITLE IX POLICY

a) Definitions for Title IX Terms

i. *Actual Knowledge*

"Actual knowledge" means notice of sexual harassment or allegations of sexual harassment to Richard Milburn Academy's Title IX Coordinator or any Richard Milburn Academy official who has authority to institute corrective measures on behalf of Richard Milburn Academy, or to any employee of an elementary and secondary school. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of Richard Milburn Academy with actual knowledge is the respondent (as that term is defined below). The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of Richard Milburn Academy. "Notice" as used in this definition includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator. *34 C.F.R. 106.30(a)*.

ii. *Complainant*

"Complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. *34 C.F.R. 106.30(a)*.

iii. *Consent*

"Consent" is not currently defined by the Title IX regulations, nor do the regulations require Richard Milburn Academy to adopt a particular definition of consent with respect to sexual assault. *34 C.F.R. 106.30(a)*.

iv. *Deliberate Indifference Standard*

If Richard Milburn Academy has actual knowledge of sexual harassment in an education program or activity of Richard Milburn Academy against a person in the United States, it must respond promptly in a manner that is not deliberately indifferent. Richard Milburn Academy is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances. *34 C.F.R. 106.44*.

v. *Education Program or Activity*

For purposes of this Title IX policy, "education program or activity" includes locations, events, or circumstances over which Richard Milburn Academy exercised substantial control over both the respondent and the context in which sexual harassment occurs. *34 C.F.R. 106.44*.

vi. *Formal Complaint*

"Formal complaint" means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that Richard Milburn Academy investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in Richard Milburn Academy's education program or activity. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by email, by using the contact information for the Title IX Coordinator provided by Richard Milburn Academy, and by any additional method designated by Richard Milburn
Academy. As used in this definition, the term "document filed by a complainant" means a document or electronic submission (such as by email or through an online portal provided for this purpose by Richard Milburn Academy) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party to the Title IX formal complaint, and must comply with the requirements of the Title IX formal process, including the informal resolution process. *34 C.F.R. 106.30(a)*.

vii. *Respondent*

"Respondent" means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. *34 C.F.R. 106.30(a)*.

viii. *Sexual Harassment*

"Sexual harassment" means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of Richard Milburn Academy conditioning the provision of an aid,

benefit, or service of Richard Milburn Academy on an individual's participation in unwelcome sexual conduct;

2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Richard Milburn Academy 's education program or activity; or
3. "Sexual assault" as defined in 20 U.S.C. 1091(f)(6)(A)(v); "dating violence" as defined in 34 U.S.C. 12291(a)(10); "domestic violence" as defined in 34 U.S.C. 12291(a)(8); or "stalking" as defined in 34 U.S.C. 12291(a)(30).

34 C.F.R. 106.30(a).

ix. Supportive Measures

"Supportive measures" means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to Richard Milburn Academy's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Richard Milburn Academy's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Richard Milburn Academy must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair Richard Milburn Academy's ability to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. *34 C.F.R. 106.30(a)*.

b) Requirement to Designate Title IX Coordinator

Richard Milburn Academy must designate at least one employee as a Title IX Coordinator to coordinate Richard Milburn Academy 's efforts to comply with its requirements under Title IX.

c) Notification of Title IX Policy

Richard Milburn Academy must notify applicants for admission and employment, students, parents or legal guardians of students, and all professional organizations holding professional agreements with Richard Milburn Academy of the name or title, office address, email address, and telephone number of the employee or employees designated as the Title IX Coordinator.

Richard Milburn Academy must also notify the individuals noted above that Richard Milburn Academy does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required under Title IX not to discriminate in such a manner. The notification must also state that the requirement not to discriminate in the education program or activity extends to admission and employment, and that inquiries about the application of Title IX to Richard Milburn Academy may be referred to the designated Title IX Coordinator, to the assistant secretary for civil rights of the Department of Education, or both.

34 C.F.R. 106.8(a), (b)(1).

d) Handbook Information and Website Postings

Richard Milburn Academy must prominently display the contact information required to be listed for the Title IX Coordinator and the nondiscrimination policy described in "Notification of Title IX Policy," above, on the Richard Milburn Academy website, if any, and in the Employee Handbook and Student / Parent Handbook.

Richard Milburn Academy may not use or distribute a publication stating that Richard Milburn Academy treats applicants, students, or employees differently on the basis of sex except when such treatment is permitted by Title IX.

34 C.F.R. 106.8(b)(2).

e) Reporting Sex Discrimination / Sexual Harassment

Any person may report sex discrimination, including sexual harassment, whether or not the reporting person is the person alleged to be the victim of conduct that may constitute sex discrimination or sexual harassment. Reports may be made in person, by mail, by telephone, or by email through the contact information listed for Richard Milburn Academy's Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Reports may be made at any time (including during nonbusiness hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator. *34 C.F.R. 106.8(a)*.

f) Complaint Procedures

Richard Milburn Academy must adopt and publish procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by Title IX, and a formal Title IX complaint process that complies with applicable federal regulations.

Richard Milburn Academy must provide notice to the individuals identified in Sec. 3(b) above of the school's procedures and Title IX formal complaint process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how Richard Milburn Academy will respond.

The requirements of this provision apply only to sex discrimination occurring against a person in the United States.

34 C.F.R. 106.8(c)-(d).

g) Response by Title IX Coordinator

The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing

of a formal complaint, and explain to the complainant the process for filing a formal complaint.

i. Required Supportive Measures

Richard Milburn Academy's response must treat complainants and respondents equitably by offering supportive measures and by following a grievance process that complies with the Title IX regulations (*see* Process for Formal Title IX Complaint, Sec. 3(h) below) before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.

34 C.F.R. 106.44(a).

ii. Response to Formal Complaint

In response to a formal complaint, Richard Milburn Academy must follow a process that complies with the Title IX regulations (*see* Process for Formal Title IX Complaint, Sec. 3(h) below).

34 C.F.R. 106.44(b)(1).

iii. Emergency Removals

Richard Milburn Academy is not precluded from removing a respondent from its education program or activity on an emergency basis, provided that Richard Milburn Academy:

1. Undertakes an individualized safety and risk analysis;
2. Determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal; and
3. Provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

This may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

34 C.F.R. 106.44(c).

iv. Administrative Leave

Richard Milburn Academy is not prohibited from placing a nonstudent employee respondent on administrative leave during the pendency of a Title IX formal complaint. This does not modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act. *34 C.F.R. 106.44(d)*.

h) Process for Title IX Formal Complaint

For purposes of addressing formal complaints of sexual harassment, Richard Milburn Academy's process must comply with the requirements listed in this section. Any provisions, rules, or practices other than those required by the Title IX regulations or this policy that Richard Milburn Academy adopts as part of its process for handling formal complaints of sexual harassment must apply equally to both parties. *34 C.F.R. 106.45(b)*.

Richard Milburn Academy's Title IX formal complaint process must:

1. Treat complainants and respondents equally by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a process that complies with the Title IX regulations before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. Remedies must be designed to restore or preserve equal access to Richard Milburn Academy's education program or activity. Such remedies may include the same individualized services described as supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.
2. Require an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness.
3. Require that any individual designated by Richard Milburn Academy as a Title IX Coordinator, investigator, decision-maker, or any person designated by Richard Milburn Academy to facilitate an informal resolution process, not to have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Richard Milburn Academy must ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process receive training on the definition of sexual harassment, the scope of Richard Milburn Academy's education program or activity, how to conduct an investigation and Title IX formal complaint process (including hearings, appeals, and informal resolution processes, as applicable), and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Richard Milburn Academy must ensure that decision-makers receive training on any technology to be used at a live hearing, if any, and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. Richard Milburn Academy must also ensure that investigators receive training on relevance to create an investigative report that fairly summarizes relevant evidence. Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.
4. Include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Title IX formal complaint process.

5. Include reasonably prompt timeframes for concluding the grievance process, including reasonably prompt timeframes for filing and resolving appeals and informal resolution processes if Richard Milburn Academy offers informal resolution processes, and a process that allows for the temporary delay of the Title IX formal complaint process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.
6. Describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that Richard Milburn Academy may implement following any determination of responsibility.
7. State whether the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard, apply the same standard of evidence for formal complaints against students as for formal complaints against employees, including faculty, and apply the same standard of evidence to all formal complaints of sexual harassment.
8. Include the procedures and permissible bases for the complainant and respondent to appeal.
9. Describe the range of supportive measures available to complainants and respondents.
10. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally-recognized privilege, unless the person holding such privilege has waived the privilege.

34 C.F.R. 106.45(b)(1).

i. Notice of Allegations

Upon receipt of a formal complaint, Richard Milburn Academy must provide the following written notice to the parties who are known:

1. Notice of Richard Milburn Academy's Title IX formal complaint process, including any informal resolution process.
2. Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include:

    a. The identities of the parties involved in the incident, if known;
    b. The conduct allegedly constituting sexual harassment; and
    c. The date and location of the alleged incident, if known.

The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Title IX formal complaint process. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney and may inspect and review evidence. The written notice must inform the parties of any provision in Richard Milburn Academy's Code of Conduct that prohibits knowingly making false statements or knowingly submitting false information during the Title IX formal complaint process.

If, in the course of an investigation, Richard Milburn Academy decides to investigate allegations about the complainant or respondent that are not included in the notice of allegations, Richard Milburn Academy must provide notice of the additional allegations to the parties whose identities are known.

34 C.F.R. 106.45(b)(2).

ii. *Dismissal of Formal Complaint*

Richard Milburn Academy must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment even if proved, did not occur in Richard Milburn Academy's education program or activity, or did not occur against a person in the United States, then Richard Milburn Academy must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX; such a dismissal does not preclude action under another provision of Richard Milburn Academy's Code of Conduct.

Richard Milburn Academy may dismiss the formal complaint or any allegations therein if, at any time during the investigation or hearing (if applicable):

1. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
2. The respondent is no longer enrolled or employed by Richard Milburn Academy; or
3. Specific circumstances prevent Richard Milburn Academy from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal of a formal complaint, Richard Milburn Academy must promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties.

34 C.F.R. 106.45(b)(3).

iii. *Consolidation of Formal Complaints*

Richard Milburn Academy may consolidate formal complaints as to allegations of sexual harassment against more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a Title IX formal complaint process involves more than one complainant or more than one respondent, references in this section to the singular "party," "complainant," or "respondent" include the plural, as applicable. *34 C.F.R. 106.45(b)(4)*.

iv. *Investigating Formal Complaints*

When investigating a formal complaint and throughout the Title IX formal complaint process, Richard Milburn Academy must:

1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Richard Milburn Academy and not on the parties, provided that Richard Milburn Academy cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless Richard Milburn Academy obtains that party's voluntary, written consent to do so for a Title IX formal complaint. If a party is not an "eligible student," as defined in the FERPA regulations, Richard Milburn Academy must obtain the voluntary, written consent of a "parent," as defined in the FERPA regulations.
2. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
3. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
4. Provide the parties with the same opportunities to have others present during any Title IX formal complaint proceeding, including the opportunity to be accompanied to any related or proceeding by the advisor of their choice, who may be, but is not required to be, and attorney, and not limit the choice or presence of the advisor for either the complainant or respondent in any meeting or Title IX formal complaint proceeding; however, Richard Milburn Academy may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings (if applicable), investigative interviews, or other meetings, with sufficient time for the party to prepare toparticipate.
6. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which Richard Milburn Academy does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, Richard Milburn Academy must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least five calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report. Richard Milburn Academy must make all such evidence subject to the parties' inspection and review available at any hearing (if applicable) to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

7. Create an investigative report that fairly summarizes relevant evidence and, at least five calendar days prior to a hearing (if a hearing is required or otherwise provided) or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

34 C.F.R. 106.45(b)(5).

v. *Hearings*

Richard Milburn Academy's Title IX formal complaint process may, but need not, provide for a hearing. With or without a hearing, after Richard Milburn Academy has sent to the investigate report to the parties and before reaching a determination regarding responsibility, the decision- maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. With or without a hearing, questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant. *34 C.F.R. 106.45(b)(6)(ii)*.

vi. *Determination Regarding Responsibility*

The decision-maker(s), who cannot be the same person(s) as the Title IX Coordinator or the investigator(s), must issue a written determination regarding responsibility. To reach this determination, Richard Milburn Academy must apply the same standard of evidence described at "Process for Title IX Formal Complaint, Sec. 3(h) above. The written determination must include:

1. Identification of the allegations potentially constituting sexual harassment.
2. A description of the procedural steps taken from receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held (if any).
3. Findings of fact supporting the determination.
4. Conclusions regarding the application of Richard Milburn Academy's Code of Conduct to the facts.
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions Richard Milburn Academy imposes on the respondent, and whether remedies designed to restore or preserve equal access to Richard Milburn Academy's education program or activity will be provided by Richard Milburn Academy to the complainant.
6. Richard Milburn Academy's procedures and permissible bases for the complainant and respondent to appeal.

Richard Milburn Academy must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that Richard Milburn Academy provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.
34 C.F.R. 106.45(b)(7)(i)-(iii).

The Title IX Coordinator is responsible for effective implementation of any remedies identified in a determination regarding responsibility. *34 C.F.R. 106.45(b)(7)(iv)*.

vii. *Appeals*

Richard Milburn Academy must offer both parties an appeal from a determination regarding responsibility, and from Richard Milburn Academy's dismissal of a formal complaint or any allegations therein, on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination on responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Richard Milburn Academy may offer an appeal equally to both parties on additional bases.

As to all appeals, Richard Milburn Academy must:

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the decision-maker(s) for the appeal is not the same person as the decision- maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
3. Ensure that the decision-maker(s) for the appeal complies with standards regarding conflict of interest and bias found in the Title IX regulations (as discussed in "Process for Formal Title IX Complaint," Sec. 3(h) above);
4. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
5. Issue a written decision describing the result of the appeal and the rationale for the result; and
6. Provide the written decision simultaneously to both parties.

34 C.F.R. 106.45(b)(8).

i) Informal Resolution

Richard Milburn Academy may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with Title IX. Similarly, Richard Milburn Academy may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility, Richard Milburn Academy may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication.

With respect to informal resolution, Richard Milburn Academy must provide written notice to the parties disclosing:

1. The allegations;
2. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
3. Any consequences resulting from participating in the informal resolutionprocess, including the records that will be maintained or could be shared.

Richard Milburn Academy also must obtain the parties' voluntary, written consent to the informal resolution process.

Richard Milburn Academy cannot offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

34 C.F.R. 106.45(b)(9).

j) Recordkeeping

Richard Milburn Academy must maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to Richard Milburn Academy's education program or activity;
2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and
4. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. Richard Milburn Academy must make these training materials publicly available on its website or, if Richard Milburn Academy does not maintain a website, Richard Milburn Academy must make these materials available upon request for inspection by members of the public.

For each response required under "Response by Title IX Coordinator," Sec. 3(g) above, Richard Milburn Academy must create and maintain for a period of seven years records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, Richard Milburn Academy mustdocument the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to Richard Milburn Academy's education program or activity.

If Richard Milburn Academy does not provide a complainant with supportive measures, Richard Milburn Academy must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit Richard Milburn Academy in the future from providing additional explanations or detailing additional measures taken.

34 C.F.R. 106.45(b)(10).

k) Retaliation Prohibited

Neither Richard Milburn Academy nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX.

Intimidation, threats, coercion, or discrimination, including charges against an individual for Code of Conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

Complaints alleging retaliation may be filed according to the "Process for Formal Title IX Complaint," Sec. 3(h) above.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited by Title IX.

Charging an individual with a Code of Conduct violation for making a materially false statement in bad faith in the course of a Title IX formal complaint proceeding does not constitute retaliation prohibited by Title IX provided, however, that a determination regarding responsibility alone is not sufficient to conclude that any party made a materially false statement in bad faith.

34 C.F.R. 106.71(a)-(b).

l) Confidentiality

Richard Milburn Academy must keep confidential the identity of any individual who has

made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and nay witness, except as may be permitted by the Family Educational Rights and Privacy Act ("FERPA") statute, 20 U.S.C. 1232g, or FERPA regulations, 34 C.F.R. part 99, or as required by law, or to carry out the purposes of the Title IX regulations at 34 C.F.R. part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. *34 C.F.R. 106.71(a)*.

m) Relationship to General Non-Discrimination Policy

The formal complaint investigation and resolution process outlined above in Section 3 applies only to formal complaints alleging sexual harassment under Title IX, but not to complaints alleging sex discrimination that do not constitute sexual harassment. Complaints of sex discrimination that do not constitute sexual harassment may be filed with the Title IX Coordinator and will be handled under Richard Milburn Academy's general process for receiving reports of suspected discrimination and harassment, as outlined in Section 2 above.

Sec. 4. ACCESS TO POLICY

Information regarding this policy shall be distributed annually to Richard Milburn Academy employees and distributed to parents and students through the Student Handbook. Copies of the policy shall be readily available at each campus and the Richard Milburn Academy administrative offices.

PG-3.103 PROHIBITED BULLYING

Sec. 1. BULLYING PROHIBITED

Richard Milburn Academy prohibits bullying, including cyberbullying, as defined by the Texas Education Code.

"Bullying" means a single significant act or a pattern of acts by one or more students directed at another student that exploits an imbalance of power and involves engaging in written or verbal expression, expression through electronic means, or physical conduct that satisfiesthe applicability requirements in Section 2 below, and that:

1. Has the effect or will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property;
2. Is sufficiently severe, persistent, and pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student;
3. Materially and substantially disrupts the educational process or the orderly operation of a classroom or Richard Milburn Academy; or
4. Infringes on the rights of the victim at school.

Bullying also includes "cyberbullying," which means bullying done through the use of any electronic communication device, including through the use of a cellular or other type of

telephone, a computer, a camera, electronic mail, instant messaging, text messaging, a social media application, an Internet website, or any other Internet-based communication tool.

Education Code 37.0832(a)(1)-(2).

Sec. 2. APPLICABILITY OF POLICY

This policy applies to:

1. Bullying that occurs on or is delivered to school property or to the site of a school-sponsored or school-related activity on or off school property;
2. Bullying that occurs on a publicly or privately-owned school bus or vehicle being used for transportation of students to or from school or a school-sponsored or school-related activity; and
3. Cyberbullying that occurs off school property or outside of a school-sponsored or school- related activity if the cyberbullying:
   a. Interferes with a student's educational opportunities or
   b. Substantially disrupts the orderly operation of a classroom, Richard Milburn Academy, or a school-sponsored or school-related activity.

Bullying can occur by physical contact or through electronic means and may include, by way of example, teasing, name-calling, inappropriate sexual comments, taunting, threatening to cause harm, leaving someone out on purpose, spreading rumors, embarrassing someone in public, hitting, kicking, tripping, destruction of property, taking someone's property, or making mean or rude hand gestures.

Sec. 3. PREVENTING AND MEDIATING BULLYING INCIDENTS

Richard Milburn Academy shall implement protocols and procedures as outlined by the Texas School Safety Center (TSSC) concerning bullying that prevent and mediate bullying incidents between students that:

1. Interfere with a student's educational opportunities; or
2. Substantially disrupt the orderly operation of a classroom, school, or school-sponsored or school-related activity.

Education Code 37.0832(c)(2).

SEC. 4. MINIMUM STANDARDS FOR BULLYING PREVENTION

a) Curriculum and Instruction

To assist with the reduction and prevention of bullying incidents, Richard Milburn Academy is integrating age-appropriate instruction and curriculum in the following manner:

Students in secondary grades will receive:

- Explicit direct instruction on the brain's neuroplasticity so the student recognizes bullying, including cyberbullying, can come from a developmental need to acquire more social skills, can change when the brain matures and learns better ways of coping, and is not an immutable trait;
- Classroom-culture building discussions that portray bullying as an undesirable behavior and means for attaining or maintaining social status in school, and to dissuade students from using bullying as a tool for reputation management; and
- Explicit direct instruction designed so students can recognize the role reporting plays in promoting a safe school community.

b) Bullying Compliance Committee

Each Richard Milburn Academy campus shall establish a committee, which must include parents and secondary level students if secondary grades are served at the campus, to address bullying by focusing on prevention efforts and health and wellness initiatives. The Campus Principal shall designate members of the bullying committee.

c) Bullying Survey

In order to define how positive school culture and building healthy relationships between students and staff will be measured in alignment with the school's mission, vision, and values, Richard Milburn Academy will use an age-appropriate survey that includes relevant questions on bullying, including cyberbullying, that includes appropriate privacy controls in compliance with the Family Educational Rights and Privacy Act ("FERPA").

Richard Milburn Academy will define who is responsible to develop and oversee the implementation of action plans based on the results that address student concerns regarding bullying, including cyberbullying.

Sec. 5. RETALIATION

Richard Milburn Academy prohibits retaliation against any person, including a victim, witness, or another person who, in good faith, provides information concerning an incident of bullying.

Examples of retaliation include threats, rumor spreading, ostracism, assault, destruction of property, or unwarranted grade reductions / unjustified punishment by staff members.

Sec. 6. REPORTING PROCEDURES

Reports of bullying shall be made as soon as possible after the alleged act or knowledge of the alleged act. Reports should generally be made to the Principal or to a student's teacher. Failure to immediately report may impair Richard Milburn Academy's ability to investigate and address the prohibited conduct.

To demonstrate RMA's commitment to a safe and respectful district, RMA has developed a Bully/Incident Reporting System. Students and families are able to submit reports by visiting the district's website at https://www.rmaschools.org/ or by clicking on the following link: Bully/Incident Reporting System / Bully/Incident Reporting System (schoolwires.net)

Each Campus Principal may designate one or more staff members to receive bullying reports. However,

students are encouraged to report incidents of bullying to any trusted staff member. Any staff member who receives a report of potential bullying must relay the report to the appropriate designated staff member(s).

A report may be made orally or in writing. The Principal or Principal's designee shallreduce any oral reports to written form. The Superintendent or designee shall develop a written form on which incidents of suspected bullying may be reported. The form shall allow for the anonymous submission of reports of suspected bullying.

Once a report of bullying, including cyberbullying is made, Richard Milburn Academy will track the progress of the report and investigation of the reported incident(s) and shall monitor the reported counts of bullying incidents to assist Richard Milburn Academy with bullying prevention efforts and determination of Richard Milburn Academy's response to the incident.

a) ***False Claim***

A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a Richard Milburn Academy investigation regarding bullying and/or cyberbullying shall be subject to appropriate disciplinary action.

b) ***Notice to Parent or Guardian***

The Principal or Principal's designee shall provide notice of an incident of bullying to:

1. A parent or guardian of the alleged victim on or before the third school day after the date the incident is reported; and
2. A parent or guardian of the alleged bully, within a reasonable amount of time after the incident.

Education Code 37.0832.

Sec. 7. INVESTIGATION OF REPORT

a) Investigations in General

The Principal or Principal's designee shall determine whether the allegations in the report, if proven, would constitute prohibited discrimination and/or harassment, and if so proceed under Board Policy PG-3.2 (Prohibited Discrimination, Harassment, and Retaliation) instead.

The Principal or Principal's designee shall conduct an appropriate investigation based on the allegations in the report, and shall take prompt interim action calculated to prevent bullying during the course of the investigation, if appropriate.

Absent extenuating circumstances, the investigation should be completed within ten Richard Milburn Academy business days from the date of the initial report. However, the Principal or Principal's designee shall take additional time if necessary to complete a thorough investigation.

Following completion of the investigation, the Principal or Principal's designee will prepare

a written decision regarding the complaint. If the results of an investigation indicate that bullying and/or cyberbullying occurred, Richard Milburn Academy shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct in accordance with the Student Code of Conduct. Richard Milburn Academy may take action based on the results of an investigation, even if Richard Milburn Academy concludes that the conduct did not rise to the level of bullying and/or cyberbullying as defined in this policy.

Richard Milburn Academy may not impose disciplinary measures on a student who, after an investigation, is found to be a victim of bullying on the basis of that student's use of reasonable self-defense in response to the bullying.

Discipline for bullying of a student with disabilities must comply with applicable requirements under federal law, including the Individuals with Disabilities Education Act.

b) ***Response to Bullying***

Richard Milburn Academy will provide support for research-based interventions taken both for students who engage in bullying behaviors and students who were targeted by bullying behaviors.

Richard Milburn Academy will also utilize a rubric or checklist to assess incidents of bullying and to determine the school's response to incidents of bullying **by using the resource below.**
Texas Schools, Bullying, and the Law | Texas School Safety Center (txstate.edu)

c) ***Confidentiality***

To the greatest extent possible, Richard Milburn Academy shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation.

d) ***Appeal***

A parent or student who is dissatisfied with the outcome of the investigation may appeal under Board Policy PG-3.509 (Parent and Student Complaints and Grievances).

Sec. 8. ASSISTANCE FROM PRINCIPAL

Any student who feels that he or she may be the victim of bullying should contact the Principal or Principal's designee to obtain assistance and intervention in response to the potential bullying.

The Principal or Principal's designee shall notify the victim, the student who engaged in bullying, and any student(s) who witnessed the bullying of available counseling options.

Sec. 9. ACCESS TO POLICY

Information regarding this policy shall be distributed annually to Richard Milburn Academy employees and included in the Student Handbook. Copies of the policy shall be readily

available at each campus and the Richard Milburn Academy administrative offices.

Sec. 10. REPORT TO LOCAL LAW ENFORCEMENT

A Principal or the Principal's designee may make a report to local law enforcement officials if, after an investigation is completed, the Principal or Principal's designee has reasonable grounds to believe that a student engaged in conduct that constitutes an offense under Section 22.01 (Assault) or 42.07(a)(7) (Harassment) of the Texas Penal Code.

A Principal's designee may include any employee under the supervision of the Principal, other than a school counselor.

A report to local law enforcement officials may include the name and address of each student the Principal or Principal's designee believes may have participated in the conduct.

Sec. 11. COMPLIANCE WITH LAW

All actions taken by Richard Milburn Academy in response to bullying, including cyberbullying, must comply with state and federal law regarding students with disabilities.

PG-3.104 MARRIED AND PREGNANT STUDENTS

Sec. 1. MARRIED STUDENTS

Married students have the same rights and responsibilities as unmarried students. This includes the right to participate in any extracurricular activities on the same basis, and subject to the same requirements, as unmarried students.

If Richard Milburn Academy receives federal funds, it shall not apply any rule concerning a student's actual or potential marital status that treats students differently on the basis of sex. *20 U.S.C. 1681*; *34 CFR 106.40*.

Except as expressly provided by law, a student who has been married in accordance with Texas law has the capacity and power of an adult, regardless of age. *Family Code 1.104*.

Sec. 2. PREGNANT STUDENTS

Richard Milburn Academy shall not discriminate against any student or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of the student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of Richard Milburn Academy's program or activity.

Pregnant students have the right to continue their education during pregnancy and may choose to exercise that right by:

1. Remaining in the regular school program.
2. Participating in any other special program Richard Milburn Academy mayprovide for pregnant students.

The student may also choose to request a leave of absence. Such request shall be accompanied by a licensed physician's certification that the leave is a medical necessity. Students who avail themselves of this option are exempt from compulsory attendance during the period certified by the physician as necessary for the leave of absence.

Richard Milburn Academy may require such a student to obtain the certification of a physician that the student is physically and emotionally able to continue participation in the normal education program or activity so long as such certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

PG-3.201 ADMISSION AND ENROLLMENT

Sec. 1. NON-DISCRIMINATION IN ADMISSIONS

It is the policy of Richard Milburn Academy to comply with all state and federal regulations regarding admission and not to discriminate during the admission and the lottery process on the basis of sex; national origin; ethnicity; religion; disability; academic, artistic, or athletic ability; or the district the child would otherwise attend. *Education Code 12.111(a)(5)*; *19 TAC 100.1207(d)(1).*

Sec. 2. GENERAL ELIGIBILITY FOR ADMISSION

Richard Milburn Academy requires applicants to submit a complete TEA Charter Student Admission Application form in order to be considered for admission.

The application window will open *the second Monday of February* and close *the first Friday of February*. *19 TAC 100.1207(a)(1)*.

Applicants <u>are not</u> required to provide transcripts or other academic records until <u>after</u> they are offered admission.

Richard Milburn Academy shall generally admit all persons who reside within the geographic area served by Richard Milburn Academy and for whom Richard Milburn Academy operates a grade level sought and who, as of September 1 of any school year, is under 21 years of age, or are at least 21 years of age and under 26 years of age and admitted by Richard Milburn Academy to complete the requirements for a high school diploma, if the person meets any of the following conditions:

1. The applicant and either parent reside in the geographic are served by Richard Milburn Academy.
2. The applicant does not reside the geographic area served by Richard Milburn Academy boundaries, but one of the parents resides within the geographic areas served by Richard Milburn Academy and that parent is a joint managing conservator or the sole managing conservator or possessory conservator of the applicant.
3. The applicant and his or her guardian or other person having lawful control under a court order reside within the geographic area served by Richard Milburn Academy.
4. The applicant is under the age of 18 and has established a separate residence within the geographic area served by Richard Milburn Academy separate and apart from his or her parent, guardian, or other person having lawful control under an order of a court and has established

that the applicant's presence in Richard Milburn Academy is not for the primary purpose of participation in extracurricular activities. However, Richard Milburn Academy is not required to admit an applicant under this provision if the applicant:

a. Has engaged in conduct or misbehavior within the preceding year that has resulted in removal to a disciplinary alternative education program or expulsion;
b. Has engaged in delinquent conduct or conduct in need of supervision and is on probation or other conditional release for that conduct; or
c. Has been convicted of a criminal offense and is on probation or other conditional release.

5. The applicant is homeless, regardless of the residence of the applicant, of either parent of the applicant, or of the applicant's guardian or other person having lawful control of the applicant.
6. The applicant is a foreign exchange student placed with a host family that resides within the geographic area served by Richard Milburn Academy by a nationally recognized foreign exchange program, unless Richard Milburn Academy has applied for and been granted a waiver by the Commissioner because:
   a. Admission would impose a financial or staffing hardship on Richard Milburn Academy;
   b. Admission would diminish Richard Milburn Academy's ability to provide high-quality education services for Richard Milburn Academy's domestic students; or
   c. Admission would require domestic students to compete with foreign exchange students for educational resources.
7. The applicant resides at a residential facility, as defined in Education Code 5.001, located within the geographic area served by Richard Milburn Academy.
8. The applicant resides within the geographic area served by Richard Milburn Academy and is 18 or older or the applicant's disabilities of minority have been removed.
9. The applicant does not reside within the geographic area served by Richard Milburn Academy, but a grandparent resides within the geographic area served by Richard Milburn Academy and provides a substantial amount of after-school care for the applicant as determined by the Board.
10. The applicant and either parent of the applicant reside in a residence homestead that is located on a parcel of property any part of which is located within the geographic area served by Richard Milburn Academy.

Education Code 25.001.

Students who reside outside the primary geographic boundary stated in the Richard Milburn Academy charter shall not be admitted to the charter school until all eligible applicants that reside within the primary boundary and have submitted a timely application have been enrolled. Then, if the charter provides for a secondary boundary, Richard Milburn Academy may admit students who reside within the secondary boundary in accordance with the terms of the charter. *19 TAC 100.1207(g).*

Richard Milburn Academy may also admit a child of a Richard Milburn Academy employee regardless of whether the child resides in the geographic area served by Richard Milburn Academy. Such a child must satisfy all other eligibility requirements imposed by law and/or Richard Milburn Academy in order to be granted admission and enrollment in Richard Milburn Academy. *Education Code 12.117(d).*

Sec. 3. LOTTERY PROVISIONS

A "lottery" for purposes of this policy is a non-weighted, random selection process that determines the order of enrollment of student applicants. A lottery is to be conducted if the number of applicants exceeds the maximum enrollment. The lottery shall take place within 15 days after the closing date of the application period. The lottery will be conducted via lottery selection software. The principal or designee of each campus will conduct the computerized lottery, with supervision by at least one member of the sponsoring entity or his or her designee and a representative from the Richard Milburn Academy Central Office. This ensures that the

admissions list and the waiting list are selected randomly. Results of the lottery shall be certified by a notary public.

a) *Development of Waiting List*

The lottery will be paused momentarily after all available seats are filled. The names of eligible students with completed applications who apply and are not admitted shall be added to the end of the waitlist in the order in which the applications are received. As spaces become available during the school year, Richard Milburn Academy must consult the applicable waitlist and select a new student for enrollment in the order that students appear on the list. Richard Milburn Academy shall review each waitlist no less than every 60 days and eliminate duplicate entries and the names of students who have been admitted to Richard Milburn Academy. *19 TAC 100.1207(e).*

b) *Admission Process of Returning Students*

Students who currently attend Richard Milburn Academy and intend to return the next school year (referred to as "returning students") are exempted from the lottery if they notify Richard Milburn Academy of their intent to return for the next school year by the deadline designated by the Superintendent or designee for the then-current school year.

c) *Siblings Policy and Children of the School's Founders and Employees*

Siblings of returning students are exempt from the lottery and, space permitting, are automatically enrolled. For this policy "sibling" shall mean a biological or legally adopted brother or sister residing in the same household as the applicant. Cousins, nieces, nephews and unrelated children sharing an address with the applicant are not siblings. Sibling enrollment is dependent on available space and does not guarantee enrollment of each listed sibling.

Children of Richard Milburn Academy's founders, teachers, and staff (so long as the total number of students allowed constitutes only a small percentage of the total enrollment) are exempt from lottery requirements, as permitted by federal guidance on the Charter Schools Program.

19 TAC 100.1207(b).

d) *Applications Submitted Outside the Designated Application Period*

If a student applies to Richard Milburn Academy outside of the designated application period, the student will be placed on a waiting list in the order of the date in which the application is received.

e) *Waitlist Reporting Requirements*

Each school year, the following information must be maintained at the campus level for reporting to the Texas Education Agency no later than the last Friday in October of each school year:

1. The total number of students on the waitlist;

2. The number of students on the waitlist disaggregated by grade level;
3. The number of students enrolled;
4. The enrollment capacity; and
5. Information necessary to identify each student, as specified in Texas Education Code § 12.1174.

Sec. 4. STUDENTS WITH DOCUMENTED HISTORIES OF A CRIMINAL OFFENSE AND/OR MISCONDUCT

As authorized by its open-enrollment charter, Richard Milburn Academy shall exclude from enrollment those students who have a documented history of a criminal offense, a juvenile court adjudication, or other discipline problems under Subchapter A, Chapter 37 of the Education Code. *Education Code 12.111(a)(5)(A)*.

Sec. 5. VERIFICATION OF RESIDENCY AND IMMUNIZATION RECORDS FOR ENROLLMENT

Verification of residency and current immunization records are required for all students enrolling. Every student enrolling for the first time must present a signed statement from a physician or documentation of immunizations as required by the Texas Department of Health, no later than 30 days after enrolling. Students who submit an affidavit from a physician stating immunizations should not be administered for medical reasons, and students who submit an affidavit signed by the student's parent or guardian declining immunizations for reasons of conscience, will be excepted from this requirement. The parent or guardian must furnish records that verify the identity of the student.

A person's "residence," for the purpose of this policy is the true, fixed and permanent place where the qualifying occupant ordinarily lives and sleeps, not less than four nights during the school week and to which, when temporarily absent from the residence, the occupant intends to return. The qualifying occupant specified by Education Code 25.001(b) must generally reside in the geographic area served by Richard Milburn Academy. A person who is homeless, as defined by 42 U.S.C. 11302, need not reside within the geographic area served by Richard Milburn Academy.

In order to verify residency for enrollment, acceptable evidence of residency includes:

- Current property tax bill with parent/guardian's name and property address;
- Current rental or lease agreement with parent/guardian's name, student name, and address, as well as manager or owner's name and telephone number;
- Documents related to the purchase of the residence with the parent/guardian's name and property address;
- Mail dated within 60 days before the application date from the following sources:
  - Social Security Administration;
  - A Texas State government agency;
  - Utility companies;
  - Credit card bill;
  - Financial institutions; including checking or savings;
  - Insurance companies;

- State and Federal Revenue documents;
- Paycheck information; and
- Other sources or documents demonstrating residency.

If, at any time, a student's or qualifying occupant's residence is in question, Richard Milburn Academy may ask for additional documents for verification. If the parent or legal guardian cannot provide evidence of residency because the parent or legal guardian is living with a relative or friend, a notarized statement by the relative or friend may be accepted by Richard Milburn Academy with the following stipulation:

- The notarized statement must state that the parent or legal guardian and child are living with the relative/friend;
- The notarized statement must state the name of the relative or friend who is on the relative or friend's proof of residence;
- The notarized statement must state the same address of the relative or friend who is on the relative or friend's proof of residence;
- A copy of the relative or friend's proof of residence must be attached to the notarized statement (meeting the documentation criteria described above); and
- The notarized statement must be signed by the same name of relative or friend who is on the relative or friend's proof of residence.

A person whose parent or guardian is an active-duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, may establish residency by providing to Richard Milburn Academy a copy of a military order requiring the parent's or guardian's transfer to a military installation in or adjacent to Richard Milburn Academy's attendance zone. Such proof of residence shall be provided to Richard Milburn Academy not later than the 90th day after the arrival date specified in the military order requiring the parent's or guardian's transfer. For purposes of this provision, the term "residence" includes residence in a military temporary lodging facility. *Education Code 25.001(c-1)-(c-2)*.

Richard Milburn Academy may conduct home-visits, at any time, to confirm residency of applicants and enrolled students. Falsification of residence on an enrollment form is a criminal offense.

Sec. 6. ADULT STUDENT ATTENDANCE REQUIREMENT FOR CONTINUED ADMISSION

A person who voluntarily attends school after his or her 19th birthday shall attend school each school day for the entire period the program of instruction is offered. Richard Milburn Academy may revoke, for the remainder of the school year, the enrollment of a person who has more than five absences in a semester that are not excused under Education Code 25.087, except that Richard Milburn Academy may not revoke the enrollment on a day on which the person is physically present at school. A person whose enrollment is revoked under this subsection may be considered an unauthorized person on school grounds and a criminal trespass warning may be issued. Prior to revoking the person's enrollment, Richard Milburn Academy shall issue a warning letter to the person, after the third unexcused absence, stating that the person's enrollment may be revoked for the remainder of the school year if the person has more than five unexcused absences in a semester. As an alternative to revoking enrollment, Richard Milburn Academy may impose a behavior improvement plan. *Education Code 25.085(e), (g), (h).*

Sec. 7. STUDENT RESIDENCY SEPARATE FROM PARENT/GUARDIAN

In order to protect the best interests of students enrolled, for purposes of students under the age of 18 who have established a residence apart from the person's parent, guardian, or other person having lawful control, such

persons must establish their separate residency and verify it with documentation acceptable to Richard Milburn Academy in the same manner as other students.

Sec. 8. ADMISSION OF HOMELESS STUDENTS

a) Definitions

"Enroll" and "enrollment" include attending classes and participating fully in school activities.

"Homeless child" or "homeless children" means children or youths who lack a fixed, regular, and adequate nighttime residence and includes:

1. Children who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;
2. Children who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
3. Children who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
4. Migratory children living in circumstances described above. "Migratory child" means a child who made a qualifying move in the preceding 36 months (a) as a migratory agricultural worker or a migratory fisher; or (b) with, or to join, a parent or spouse who is a migratory agricultural worker or a migratory fisher.

"School of origin" means the school that the child attended when permanently housed or the school in which the child was last enrolled. When a child completes the final grade level served by the school of origin, the term "school of origin" shall include the designated receiving school at the next grade level for all feeder schools, as applicable.

"Unaccompanied youth" includes a homeless child or youth not in the physical custody of a parent or guardian.

b) General Requirements

As a condition of receiving federal funds under the McKinney-Vento Homeless Assistance Act, Richard Milburn Academy shall, according to a homeless child's best interest:

1. Continue the child's education in the school of origin for the duration of homelessness;
   a. If the child's family becomes homeless between academic years or during an academic year; and
   b. For the remainder of the academic year, if the child becomes permanently housed during an academic year; or
2. Enroll the child in any Richard Milburn Academy school that non-homeless students who live in Richard Milburn Academy's geographic boundaries are eligible to attend.

42 U.S.C. 11432(g)(3)(A).

In determining the best interest of a homeless child, Richard Milburn Academy shall:

1. Presume that keeping the child in the school of origin is in the child's best interest, except when doing so is contrary to the request of the child's parent or guardian, or in the case of an unaccompanied youth;
2. Consider student-centered factors related to the child's best interest, including factors related to the impact

of mobility on achievement, education, health, and safety of homeless children, giving priority to the request of the child's parent or guardian or the unaccompanied youth;

3. If, after conducting the best interest determination based on consideration of the presumption in item 1 above and the student-centered factors in item 2 above, Richard Milburn Academy determines that it is not in the child's best interest to attend the school of origin or the school requested by the parent or guardian or the unaccompanied youth, provide the parent, guardian, or unaccompanied youth with a written explanation of the reasons for its determination, in a manner and form understandable to such parent, guardian, or unaccompanied youth, including information regarding the right to appeal as set forth in Sec. 8-f below; and
4. In the case of an unaccompanied youth, ensure that the homeless liaison assists in placement and enrollment decisions under these provisions, gives priority to the views of such unaccompanied youth, and provides the notice to such youth of the right to appeal as set forth in Sec. 8-f below.

42 U.S.C. 11432(g)(3)(B).

Richard Milburn Academy shall not stigmatize or segregate a student who is homeless.

c) Information from Parents

Richard Milburn Academy may require the parent or guardian of a homeless child to submit contact information. *42 U.S.C.11432(g)(3)(H)*.

d) Enrollment

Richard Milburn Academy shall immediately enroll a homeless child, depending on available seats, even if the child:

1. Is unable to produce records normally required for enrollment, such as previous academic record, records of immunization and other required health records, proof of residency, or other document; or
2. Has missed application or enrollment deadlines during any period of homelessness.

42 U.S.C. 11432(g)(3)(C).

e) Enrollment in School of Origin

In determining the best interest of the student for the purpose of continuing the student's education in the school of origin, Richard Milburn Academy shall presume that keeping the student in his or her school of origin is in the student's best interest, except when doing so is contrary to the request of the parent, guardian, or unaccompanied youth. Richard Milburn Academy shall also consider the best interests of the student with regard to the impact of moving schools on the student's achievement, education, health, and safety, including such relevant factors as:

1. Continuity of instruction;
2. Age and grade placement of the student;
3. Distance of the commute and its impact on the student's education or special needs;
4. Personal safety of the student;
5. The student's eligibility and need for any specialized services and supports, such as Section 504, special education and related services, or bilingual or English as a second language services;
6. Length of anticipated stay in a temporary shelter or other temporary location, if applicable;

7. Likely area of the family's or youth's future housing;
8. Time remaining in the school year; and
9. School placement of siblings.

Services that Richard Milburn Academy is required to provide shall not be considered in determining the student's school of attendance.

f) Disputes Concerning Enrollment

If a dispute arises over eligibility, or school selection or enrollment in a school:

1. The child shall be immediately enrolled in the school in which enrollment is sought, pending final resolution of the dispute, including all available appeals;
2. The parent or guardian of the child or an unaccompanied youth shall be provided with a written explanation of any decisions related to school selection or enrollment made by Richard Milburn Academy, including the rights of the parent, guardian, or unaccompanied youth to appeal such decisions.
3. The parent, guardian, or unaccompanied youth shall be referred to the homeless liaison, who shall carry out the dispute resolution process as expeditiously as possible after receiving notice of the dispute; and
4. In the case of an unaccompanied youth, the liaison shall ensure that the youth is immediately enrolled in the school in which the youth seeks enrollment pending resolution of such dispute.

42 U.S.C. 11432(g)(3)(E).

g) Comparable Services

Richard Milburn Academy shall provide a homeless child with services comparable to those offered to other student in the school in which the child is enrolled. *42 U.S.C. 11432(g)(4)*.

Sec. 9. TRANSER OPTIONS FOR CERTAIN ENROLLED STUDENTS

a) Transfer Option for Students who are Children of Peace Officers

On the request of a peace officer who is a parent of an enrolled student, Richard Milburn Academy shall permit the transfer of the child(ren) of the peace officer to another Richard Milburn Academy campus, pending available seats at the requested transfer school. For purposes of this policy, the term "peace officer" has the meaning assigned by section 1701.001, Texas Occupations Code.

b) Transfer Options for Students who are Children of Servicemembers

On the request of a servicemember (meaning an active duty member of the armed forces of the United States, a reserve component of the armed forces of the United States, or the Texas National Guard) who is the parent of an enrolled student, Richard Milburn Academy shall permit the transfer of the child(ren) of the servicemember to another Richard Milburn Academy campus, pending available seats at the requested transfer school.

c) No General Transportation Services

Richard Milburn Academy is not required to provide general transportation to a student who transfers to another Richard Milburn Academy location under Section 9 of this policy.

Sec. 10. ADMISSION OF MILITARY DEPENDENTS

a) Applicability

The provisions of Sec. 10 of this policy shall apply to the children of:

1. Active duty members of the uniformed services, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Sections 1209 and 1211;
2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and
3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.

Sec. 10 of this policy shall not apply to the children of:

1. Inactive members of the national guard and military reserves;
2. Members of the uniformed services now retired, except as provided above;
3. Veterans of the uniformed services, except as provided in this policy; and
4. Other U.S. Department of Defense personnel and otherfederal agency civilian and contract employees not defined as active duty members of the uniformed services.

Education Code 162.002 Article III.

b) Definitions

"Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Sections 1209 and 1211.

"Children of military families" means a school-aged child, enrolled in kindergarten through twelfth grade, in the household of an active duty member.

"Deployment" means the period one month prior to the service members' departure from their home station on military orders through six months after return to their home station.

"Transition" means:

1. The formal and physical process of transferring from school to school; or
2. The period of time in which a student moves from one school in the sending state to another school in the receiving state.

"Uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

"Veteran" means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

Education Code 162.002 Article II.

c) Eligibility for Enrollment

Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law, shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

i. *Continued Acceptance*

A transitioning military child, placed in the care of a non-custodial parent or other person standing *in loco parentis* who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which the child was enrolled while residing with the custodial parent.

Education Code 162.002 art. VI, § A.

d) Education Records

i. *Unofficial Records*

In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parents a complete set of unofficial education records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records, Richard Milburn Academy **s**hall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

ii. *Official Records*

Simultaneous with the enrollment and conditional placement of the student, Richard Milburn Academy shall request the student's official education record from the sending district.

Education Code 162.002 art. IV, §§ A–B.

e) Grade-Level Placement

Students shall be allowed to continue their enrollment at grade level in Richard Milburn Academy commensurate with their grade level, including kindergarten, from the sending district at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level shall be eligible for enrollment in the next highest grade level in Richard Milburn Academy, regardless of age. A student transferring after the start of the school year shall enter Richard Milburn Academy on his or her validated level from an accredited school in the sending state. *Education Code 162.002 art. IV, § D.*

f) Course Placement

When the student transfers before or during the school year, Richard Milburn Academy shall initially honor placement of the student in educational courses based on the student's enrollment in the sending district and/or educational assessments conducted at the sending district if the courses are offered. Course placement includes but is not limited to honors, international baccalaureate, advanced placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting

placement in academically and career challenging courses should be paramount when considering placement. This does not preclude Richard Milburn Academy from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s). *Education Code 162.002 art. V, § A*.

g) Educational Program Placement

Richard Milburn Academy shall initially honor placement of the student in educational programs based on current educational assessments conducted at the sending district or participation/placement in like programs in the sending state. Such programs include, but are not limited to:

1. Gifted and talented programs; and
2. English as a second language (ESL).

This does not preclude Richard Milburn Academy from performing subsequent evaluations to ensure appropriate placement of the student. *Education Code 162.002 art. V, § B*.

h) Waivers

Richard Milburn Academy administrative officials shall have flexibility in waiving course/program prerequisites, or other preconditions for placement in courses/programs offered by Richard Milburn Academy. *Education Code 162.002 art. IV, §§ A–B, D*.

Sec. 11. DISCREPANCIES IN STUDENT NAME

The Superintendent or designee shall notify the Missing Children and Missing Persons Information Clearinghouse if a child is enrolled under a name other than the name that appears on the identifying documents. If a student's records have not been received within 30 days of a request, the Superintendent or designee shall notify local law enforcement for a determination of whether the child has been reported as missing. *Education Code 25.002(b).*

Sec. 12. FOOD ALLERGY INFORMATION

The parent of each student enrolled with Richard Milburn Academy must complete a form provided by Richard Milburn Academy that discloses (1) whether the child has a food allergy or a severe food allergy that should be disclosed to Richard Milburn Academy to enable Richard Milburn Academy to take any necessary precautions regarding the child's safety and (2) specifies the food(s) to which the child is allergic and the nature of the allergic reaction.

For purposes of this requirement, the term "severe food allergy" means a dangerous or life- threatening reaction of the human body to a food-borne allergen introduced by inhalation, ingestion, or skin contact that requires immediate medical attention.

Richard Milburn Academy may also require information from a child's physician if the child has food allergies.

Food allergy information forms will be maintained in the child's student records, and shall remain confidential. Information provided on food allergy information forms may be disclosed to teachers, school counselors, school nurses, and other appropriate school personnel only to the extent consistent with Board policy and as permissible under the Family Educational Rights and Privacy Act of 1974 ("FERPA").

Education Code 25.0022(a)-(c).

A discretionary expulsion could result if a misrepresentation is discovered after a student is enrolled.

PG-3.202 COMPULSORY ATTENDANCE

Sec. 1. COMPULSORY ATTENDANCE

A student who is at least six years of age, or who is younger than six and has previously been enrolled in first grade, and who has not yet reached his or her 19th birthday shall attend school, as well as any applicable accelerated instruction program, extended year program, or tutorial session, unless the student is otherwise excused from attendance or legally exempt. On enrollment in kindergarten or prekindergarten, a student shall attend school. *Education Code 25.085(a)-(c).*

Sec. 2. STUDENTS 19 AND OVER: VOLUNTARY ENROLLMENT

A student who voluntarily enrolls in school or voluntarily attends school after the student's 19th birthday shall attend school each school day for the entire period the program of instruction is offered. If a student 19 or older has more than five unexcused absences in a semester, Richard Milburn Academy may revoke the student's enrollment, except that Richard Milburn Academy may not revoke the enrollment on a day on which the student is physically present at school. The student's presence on school property thereafter is unauthorized and may be considered trespassing.

Prior to revoking the student's enrollment, Richard Milburn Academy shall issue a warning letter to the student, after the student's third unexcused absence, stating that the student's enrollment may be revoked for the remainder of the school year if the student has more than five unexcused absences in a semester. As an alternative to revoking enrollment, Richard Milburn Academy may impose a behavior improvement plan described by Education Code 29.0915.

Education Code 25.085(e), (g).

Sec. 3. ACCELERATED INSTRUCTION

Unless exempted by law, a student must also attend:

1. An accelerated reading instruction program to which the student has been assigned under Education Code 28.006(g); or
2. An accelerated instruction program to which the student is assigned under Education Code 28.0211.

Sec. 4. EXCUSED ABSENCES

Richard Milburn Academy will excuse a student from attending school for the following purposes:

a) Observing Religious Holy Days

A student who is observing holy days is allowed up to one day of excused travel for travelling to the site where the student will observe the holy days and up to one day of excused travel

for traveling from that site. For purposes of excusing a student from attending school to observe a religious holy day, Richard Milburn Academy may not require documentation from a clergy member or other religious leader and shall accept a note from the student's parent or person standing in parental relation verifying the purpose of the student's absence.

b) Court Appearances

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.

c) Citizenship Paperwork

A student who is appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship is allowed up to one day of excused travel for travelling to the site where the student will complete thepaperwork and up to one day of excused travel for traveling from that site.

d) Citizenship Proceedings

A student who is taking part in a United States naturalization oath 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.

e) Election Clerks

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.

f) Children in Conservatorship of DFPS

Student absence will be excused for a student who is in the conservatorship of the Department of Family and Protective Services ("DFPS") who misses school:

1. To participate in an activity ordered by a court under Family Code Chapter 262 or 263, provided that it is not practicable to schedule the participation outside of school hours; or
2. To attend a mental health or therapy appointment or family visitation as ordered by a court under Family Code Chapter 262 or 263.

g) Health Care Appointments

Temporary absence resulting from an appointment with a health-care professional will be excused if the student commences classes or returns to school on the same day of the appointment. The appointment should be supported by a document such as a note from the health-care professional. "Temporary absence" includes the temporary absence of a student diagnosed with autism spectrum disorder on the day of the student's appointment with a health-care practitioner to receive a generally recognized service for persons with autism spectrum

disorder, including applied behavior analysis, speech therapy, and occupational therapy.

h) Serious or Life-Threatening Illness or Related Treatment

An absence will be excused if it is resulting from a serious or life-threatening illness or related treatment that makes the student's attendance infeasible. The student or the student's parent or guardian must provide a certification from a physician licensed to practice medicine in this state specifying the student's illness and the anticipated period of the student's absence relating to the illness or related treatment.

i) Taps at Military Funeral

Richard Milburn Academy may excuse a student in grades 6–12 for the purpose of sounding "Taps" at a military honors funeral held in Texas for a deceased veteran.

j) Higher Education Visits

Richard Milburn Academy will excuse a student for up to two days per school year from attending school to visit an institution of higher education accredited by a generally recognized accrediting organization during the student's junior and senior year for the purposes of determining the student's interest in attending the institution of higher learning. Richard Milburn Academy may not excuse for this purpose more than two days during the student's junior year and two days during the student's senior year. The student must obtain approval from the Principal or designee to visit an institution of higher education, follow campus procedures to verify such a visit, and make up any work missed.

k) Career or Professional Investigation Visits

Richard Milburn Academy may excuse a student from attending school for a career investigation day to visit a professional at the professional's workplace during the student's junior and senior years of high school for the purpose of determining the student's interest in pursuing a career in the professional's field. Richard Milburn Academy may not excuse for this purposes more than two days during the student's junior year and two days during the student's senior year. The student must obtain approval from the Principal or designee to visit a professional, follow campus procedures to verify such a visit, and make up any work missed.

l) Military Dependents

Richard Milburn Academy shall excuse a student whose parent, stepparent, or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or immediately returned from continuous deployment of at least four months outside the locality where the parent, stepparent, or guardian regularly resides, to visit with the student's parent, stepparent, or guardian. Richard Milburn Academy may not excuse a student under this provision more than five days in a school year. An excused absence for this reason must be taken not earlier than the 60th day before the date of deployment or not later than the 30th day after the date of return from deployment.

m) Military Enlistment.

Richard Milburn Academy shall excuse a student who is 17 years of age or older from

attending school to pursue enlistment in a branch of the armed services of the United States or the Texas National Guard. Richard Milburn Academy may not excuse a student for this purpose more than four days of school during the period the student is enrolled in high school. Richard Milburn Academy shall verify the student's activities are related to pursuing enlistment in a branch of the armed services or the National Guard.

n) Obtaining a Driver's License or Learner License

Richard Milburn Academy may excuse a student who is 15 years of age or older from attending school to visit a driver's license office to obtain a driver's license or learner license, provided that the student is not excused for more than one day of school during the period the student is enrolled in high school for such purpose. Richard Milburn Academy shall verify the student's visit to the driver's license office in accordance with procedures adopted by Richard Milburn Academy.

o) Other Excused Absences

A person required to attend school may be excused for temporary absence resulting from any cause acceptable to the teacher, Principal, or Superintendent.

Education Code 25.087.

Sec. 5. PARENTAL CONSENT FOR ABSENCE

A student absent from school for any portion of a school day shall provide a note to the campus office upon return, signed by the parent or medical provider (see below) that describes the reason for the absence. A note signed by the student, even with the parent's permission, will not be accepted unless the student is 18 or older.

Sec. 6. FAILURE TO PROVIDE NOTE

Upon return to school, a student who has been absent and who fails within three days of the student's absence to bring a statement from a parent or medical provide verifying the illness or condition that caused the student's absence, the absence will be unexcused.

Sec. 7. MAKE-UP WORK

The student shall be allowed a reasonable time to make up schoolwork missed on the days describe above. If the student satisfactorily completes the work, the days of absence shall be counted as days of compulsory attendance. The student shall not be penalized for the absence. The Superintendent or designee shall prepare procedures for acceptance of make-up work.

Sec. 8. NOTICES TO PARENTS

Richard Milburn Academy shall notify a student's parents in writing at the beginning of the school year that, if a student is absent from school on ten or more days or parts of days within a six-month period in the same school year, the student's parent is subject to prosecution under Education Code 25.093; and the student is subject to referral to a truancy court for truant conduct under Family Code 65.003(a). *Education Code 25.095(a)*.

Sec. 9. NOTICE OF ABSENCES

Richard Milburn Academy shall notify a student's parent if the student has been absent from school, without excuse under Education Code 25.087, on three days or parts of days within a four- week period. The notice must:

1. Inform the parent that:
   a. It is the parent's duty to monitor the student's school attendance and require the student to attend school,
   b. The student is subject to truancy prevention measures under Education Code 25.0915; and
2. Request a conference between school officials and the parent to discuss the absences.

Education Code 25.095(b).

Sec. 10. FAILURE TO COMPLY WITH COMPULSORY ATTENDANCE

Richard Milburn Academy employees must investigate and report violations of the state compulsory attendance law. A student absent without permission from school; from any class; from required special programs, such as additional special instruction, termed "accelerated instruction" by the state; or from required tutorials will be considered in violation of the compulsory attendance law and subject to disciplinary action.

If a student fails to attend school without excuse on ten or more days or parts of days within a six- month period in the same school year, Richard Milburn Academy shall, within ten school days of the student's tenth absence, refer the student to a truancy court for truant conduct under Family Code 65.003(a). Richard Milburn Academy may also file a complaint against the student's parent in a county, justice, or municipal court for an offense under Education Code 25.093 if Richard Milburn Academy provides evidence of the parent's criminal negligence.

Education Code 25.0951.

Richard Milburn Academy may delay a referral of a student for truant conduct, or may choose to not refer a student for truant conduct, if Richard Milburn Academy is applying truancy prevention measures to the student under Education Code 25.0915 and determines that the truancy prevention measures are succeeding and it is in the best interest of the student that a referral be delayed or not be made. *Education Code 25.0951(d)*.

Richard Milburn Academy shall initiate truancy prevention measures under Education Code 25.0915 on a student, if the student fails to attend school without excuse on three or more days or parts of days within a four-week period, but does not fail to attend school for the time specified above. *Education Code 25.0915(a-4)*.

Richard Milburn Academy and a parent against whom a complaint for parent contributing to non-attendance has been filed may enter into a written agreement requiring the parent to complete counseling, training, or another program as required by Richard Milburn Academy. A parent who fulfills the terms of an agreement not later than the 30th day after the date on which the complaint was filed or within the period provided by the agreement is entitled to dismissal of the complaint. *Education Code 25.094*.

a) Truancy Prevention Measures

In an effort to prevent truancy and to reduce the need for referrals to truancy court, Richard Milburn Academy will take one or more of the following truancy prevention measures applicable to students identified as potential truants, designed to address student conduct related to truancy in the school setting before the student engages in truancy:

1. Impose a behavior improvement plan on the student signed by a Richard Milburn Academy employee, that Richard Milburn Academy has made a good faith effort to have signed by the student and the student's parent or guardian, and that includes:
   a. Specific description of the behavior that is required or prohibited for the student;
   b. The period for which the plan will be effective, not to exceed 45 school days after the date the contract; or

   c. The penalties for additional absences, including additional disciplinary action or the referral of the student to a truancy court; or
2. Impose school-based community service; or
3. Refer the student to counseling, mediation, mentoring, a teen court program, community- based services, or other in-school or out-of-school services aimed at addressing the student's truancy.

Education Code 25.0915(a-1).

Richard Milburn Academy shall offer additional counseling to a student and may not refer the student to truancy court if the school determines that the student's truancy is the result of:

1. Pregnancy;
2. Being in the state foster program;
3. Homelessness;
4. Severe or life-threatening illness or related treatment; or
5. Being the primary income earner for the student's family.

Education Code 25.0915(a-3).

b) Filing Requirements

Each referral to a truancy court must include a statement from Richard Milburn Academy certifying that Richard Milburn Academy applied truancy prevention measures to the student and that the truancy prevention measures failed to meaningfully address the student's school attendance. The referral must also specify whether the student is eligible for or receives special education services. *Education Code 25.0915(b).*

Sec. 11. PARENTAL CONSENT FOR A STUDENT TO LEAVE CAMPUS

Richard Milburn Academy operates a closed campus. Students are not allowed to leave for any reason during the school day without properly checking out in accordance with campus rules and procedures.

PG-3.203 ATTENDANCE ACCOUNTING

Sec. 1. RECORDS

Richard Milburn Academy shall maintain records to reflect the average daily attendance for the allocation of Foundation School Program ("FSP") and other funds allocated bythe Texas Education Agency ("TEA"). Richard Milburn Academy must maintain records and make reports concerning student attendance and participation in special programs as required by the Commissioner of Education ("Commissioner"). The Superintendent, Principals, and teachers are responsible to the Board and the state to maintain accurate, current attendance records. *19 TAC 129.21(a), (e)*.

Richard Milburn Academy shall use the student attendance accounting standards established by the Commissioner to maintain records and make reports on student attendance and student participation in special programs. The official standards are described in TEA's *Student Attendance Accounting Handbook* ("SAAH"). *19 TAC 129.1025*.

The Superintendent is responsible for the safekeeping of all attendance records and reports. The Superintendent may determine whether the properly certified attendance records or reports for the school year are to be stored in the central office, on the respective school campuses, or at another secure location. Regardless of where such records are filed or stored, they must be readily available for audit by the TEA. *19 TAC 129.21(d)*.

Richard Milburn Academy shall comply with the Student Attendance Accounting Handbook, as adopted by reference in §129.1025 of this title; TEC, §25.002; and Chapter 129 of this title, except that a charter school shall report its actual student attendance data to TEA at six-week intervals or as directed by TEA. *19 TAC 100.1067(d)*.

Sec. 2. MINIMUM ENROLLMENT

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. *19 TAC 129.21(g).*

a) Full-Day Students

Students enrolled on a full-day basis may earn one full day of attendance each school day. *19 TAC 129.21(h)(1).*

b) Half-Day Students

Students enrolled on a half-day basis may earn only one half day attendance each school day. Attendance is determined for these pupils by recording absences in a period during the half day they are scheduled to be present. *19 TAC 129.21(h)(1)*.

c) Alternative Attendance Accounting Program

Students who are enrolled in and participating in an alternative attendance accounting program approved by the Commissioner shall earn attendance according to the statutory and rule provisions applicable to that program. *19 TAC 129.21(h)(2).*

Sec. 3. ATTENDANCE FOR STATE FUNDING PURPOSES

Attendance for all grades shall be determined by the absences recorded in the second or fifth period of the day, unless Richard Milburn Academy has obtained permission from the TEA for an alternate period to record absences, unless the Board adopts a 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 a Commissioner-approved alternative attendance accounting program.

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

Students absent during the daily period selected by Richard Milburn Academy for taking attendance shall be counted absent for the entire day, unless the students are enrolled in and participating in a Commissioner-approved alternative attendance accounting program. Students present at the time attendance is taken shall be counted present for the entire day, unless the students are enrolled in and participating in a Commissioner-approved alternative attendance accounting program.

19 TAC 129.21(h).

a) Funding for Off-Campus Programs

Funding eligibility for a student participating in an off-campus program will include time instructed in the off-campus program. A campus may choose an alternate attendance-taking time for a group of students that is scheduled to be off-campus during the regular attendance-taking time. The alternate attendance-taking time will be in effect for the period of days or weeks for which the group is scheduled to be off-campus during the regular attendance-taking time (for example, for the semester or for the duration of employment). This alternate attendance-taking time may not be changed once it is selected for a particular group of students. If attendance is taken at an off-campus location, Richard Milburn Academy must ensure that attendance is taken in accordance with the attendance accounting handbook adopted under 19 TAC 1025.

For Richard Milburn Academy to receive FSP funding for a student participating in an off-campus program, Richard Milburn Academy must have documentation of an agreement between Richard Milburn Academy and the college. *19 TAC 129.1031(c), (d)*.

Sec. 4. EXCEPTIONS

A student not actually on campus when attendance is taken may be considered in attendance for FSP purposes if:

a) Board-Approved Activities

The student is participating in a Board-approved activity under the direction of a member of

Richard Milburn Academy's professional staff, or an adjunct staff member who has a bachelor's degree and is eligible for participation in Teacher Retirement System of Texas ("TRS").

b) Mentorships

The student is participating in a mentorship approved by Richard Milburn Academy personnel to serve as one or more of the advanced measures needed to complete the Advanced/Distinguished Achievement Program.

c) Excused Absences

The student is absent for one of the purposes listed in "Excused Absences for Compulsory Attendance Determinations" in Board Policy PG-3.5 (Compulsory Attendance).

d) Other Absences

The student's absence is permitted by other conditions related to off-campus instruction described in the TEA's SAAH.

19 TAC 129.21.

Sec. 5. PARENT CONSENT TO LEAVE CAMPUS

A student absent from school for any portion of a school day shall provide a note that describes the reason for the absence. The note shall be signed by the student's parent or, if the student is 8 or older or is an emancipated minor, by the student.

Sec. 6. REPORTS TO TEA

In accordance with Commissioner rule, Richard Milburn Academy will report the following through the Public Education Information Management System (PEIMS) information disaggregated by campus and grade regarding:

1. The number of students subject to compulsory attendance under TEC 25.085, who are not exempted from attendance under TEC 25.086, and fail to attend school without excuse on 10 or more days or parts of days within a six-month period in the same school year;
2. The number of students for whom Richard Milburn Academy initiates a truancy prevention measure under TEC 25.0915(a-4); and
3. The number of parents of students against whom an attendance officer or other appropriate school official has filed a complaint of parent contributing to non-attendance under TEC 25.093.

Education Code 42.006(a-6).

PG-3.204 ATTENDANCE ENFORCEMENT

Sec. 1. ATTENDANCE OFFICER

The Board has designated Richard Milburn Academy's campus principals to serve as Richard Milburn Academy's Attendance Officer(s).

Sec. 2. POWERS AND DUTIES

The Attendance Officer(s) have the following powers and duties with respect to enforcement of compulsory school attendance requirements:

1. To investigate each case of a violation of the compulsory school attendance requirements referred to the Attendance Officer(s);
2. To enforce compulsory school attendance requirements by:
   a. Applying truancy prevention measures adopted under Education Code 25.0915 to a student; and
   b. If the truancy prevention measures fail to meaningfully address the student'sconduct:
      i. Referring a student to a truancy court if the student has unexcused absences for the amount of time specified under Family Code 65.003(a); and
      ii. Filing a complaint in a county, justice, or municipal court against a parent who violates Education Code 25.093;
3. To monitor school attendance compliance by each student investigated by the Attendance Officer(s);
4. To maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the Board, or the Commissioner of Education, to provide a record to the individual or entity requesting the record;
5. To make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that the Attendance Officer(s) may not enter a residence without permission of the parent of the student or the owner or tenant of the residence; and
6. At the request of a parent, to escort a student from any location to a school campus to ensure the student's compliance with compulsory school attendance requirements.

Education Code 25.091(a), (b-1).

PG-3.205 ATTENDANCE FOR CREDIT

Sec. 1. ATTENDANCE FOR CREDIT

Except as provided below and in accordance with Richard Milburn Academy's Charter, a student shall not be given credit or a final grade for a class unless the student is in attendance 90% of the days the class is offered. This restriction does not affect a student's right to excused absences to observe religious holy days.

This attendance requirement includes both excused and unexcused absences. A student who attends fewer than 90% percent of the days the class is offered may be referred to the Attendance Review Committee ("Committee") to determine whether the absences were due to extenuating circumstances and how the student may regain credit or earn a final grade.

Sec. 2. ATTENDANCE REVIEW COMMITTEE

The Board shall appoint one or more Committees to hear petitions for class credit by students who have not met the 90% rule to determine whether there are extenuating circumstances for the absences and how the student can regain credit, if appropriate.

a) Extenuating Circumstances

In determining whether there were extenuating circumstances for the absences, the Committee will use the following guidelines:

1. All absences will be considered in determining whether a student has attended the required percentage of days.
2. If makeup work is completed, absences for the reasons listed at Board Policy PG-3.202 (Compulsory Attendance) will be considered days of attendance for this purpose.
3. A transfer or migrant student begins to accumulate absences only after he or she has enrolled in Richard Milburn Academy.
4. For a student transferring into Richard Milburn Academy after school begins, only those absences after enrollment will be considered.
5. In reaching a decision about the student's absences, the Committee will attempt to ensure that it is in the best interest of the student.
6. The Committee will consider the acceptability and authenticity of documented reasons for the student's absences.
7. The Committee will consider whether the absences were for reasons over which the student or the student's parent could exercise any control.
8. The Committee will consider the extent to which the student has completed all assignments, mastered the essential knowledge and skills, and maintained passing grades in the course or subject.
9. The student, parent will be given an opportunity to present any information to the Committee about the absences and to talk about ways to earn or regain credit.

b) Conditions for Awarding Credit or a Final Grade

The Committee may utilize any of the following conditions for regaining credit or earning a final grade for students with excessive absences:

1. Attending summer school.
2. Attending tutorial sessions, including Saturday school or before- or after-school programs.
3. Completing additional assignments, as determined by the Committee or teacher.
4. Maintaining attendance standards for the remainder of the semester.
5. Taking an examination to earn credit.

A student must earn a passing grade in order to receive credit or earn a passing grade.

c) Appeal

The student or parent may appeal the Committee's decision to the Board by filing a written request with the Superintendent in accordance with Board Policy PG-5.09 (Parent and Student Complaints and Grievances).

Sec. 3. WITHDRAWAL FOR NONATTENDANCE

Richard Milburn Academy may initiate withdrawal of a student under the age of 19 for nonattendance under the following conditions:

1. The student has been absent on ten or more consecutive school days; and
2. No less than three documented unsuccessful attempts by the attendance officer and/or principal to locate the student.

Additionally, Richard Milburn Academy may revoke the enrollment of a student 19 years of age or older who has more than five unexcused absences in one semester.

PG-3.301 ALCOHOL AND DRUG USE

Sec. 1. ALCOHOL

Richard Milburn Academy prohibits the use of alcoholic beverages at school-related or school-sanctioned activities on or off school property. *Education Code 37.007(a)*.

Student violators are subject to possible prosecution, as allowed by law, as well as the disciplinary terms of the Student Code of Conduct.

Richard Milburn Academy may cooperate with local law enforcement officials and the Texas Alcoholic Beverage Commission in attempting to provide an alcohol-free environment and in enforcing the alcohol-free zone provisions in the Alcoholic Beverage Code. *Education Code 38.007(b)*.

Sec. 2. DRUG-FREE ZONES

In order to provide a safe drug-free environment for students and employees, Richard Milburn Academy prohibits drugs and/or controlled substances (as defined in Health and Safety Code, Chapter 481) on Richard Milburn Academy property at any time, and at all school-sanctioned activities occurring on or off Richard Milburn Academy property.

A person commits an offense if the person possesses an intoxicating beverage for consumption, sale, or distribution while:

1. on the grounds or in a building of a public school; or
2. entering or inside any enclosure, field, or stadium where an athletic event sponsored or participated in by a public school of this state is being held.

Education Code 37.122.

Sec. 3. ENFORCEMENT

Richard Milburn Academy personnel shall enforce this policy on Richard Milburn Academy property. Any student found in violation of these Policy shall be subject to disciplinary action in accordance with the Student Code of Conduct.

PG-3.302 TOBACCO USE AND POSSESSION

Richard Milburn Academy prohibits students from smoking, using, or possessing e-cigarettes, vapor products, and tobacco products at school-related or school-sanctioned activities on or off Richard Milburn Academy property.

E-Cigarette or electronic cigarette means an electronic cigarette or any other device that simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device. The term also includes any device that is manufactured, distributed, or sold as an e-cigarette, e-cigar, or e-pipe; a dab pen; a vapor product; or any other similar device under another product name or description. Also included is any component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device. The term does not include a prescription medical device unrelated to the cessation of smoking.

The term includes:

1. A device regardless of whether it is manufactured, distributed, or sold as an e-cigarette, e- cigar, or e-pipe or under another product name or description; and
2. A component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device.

Health and Safety Code 161.081(1-a).

Vapor product means electronic cigarettes (e-cigarettes) or any other device that uses a mechanical heating element, battery, or electronic circuit to deliver vapor that may include nicotine to the individual inhaling from the device, or any substance used to fill or refill the device.

Richard Milburn Academy personnel shall enforce this policy on Richard Milburn Academy property. Any student found in violation of this Policy shall be subject to disciplinary action in accordance with the Student Code of Conduct. *Education Code 38.006*.

PG-3.303 IMMUNIZATION

Sec. 1. IMMUNIZATION REQUIREMENTS

Each student shall be fully immunized against diphtheria, rubeola (measles), rubella, mumps, tetanus, and poliomyelitis, unless exempted under applicable law. The Texas Department of State Health Services ("TDSHS") may modify or delete any of these immunizations or may require immunizations against additional diseases as a requirement for admission to any elementary or secondary school. *Education Code 38.001(a), (b)*.

Students in kindergarten through twelfth grade shall have the following additional vaccines,

according to the immunization schedules set forth in TDSHS regulations: pertussis, hepatitis B, hepatitis A, and varicella (chickenpox). TDSHS requires students enrolling in seventh through twelfth grades to have one dose of meningococcal vaccine on or after the student's 11th birthday. *25 TAC 97.63*.

Under Health and Safety Code Chapter 81, Subchapter E, additional vaccinations may be required by TDSHS and/or the local health authority in specific situations under the mechanism of a control order containing control measures. *25 TAC 97.72*.

Sec. 2. IMMUNIZATION AWARENESS PROGRAM

Richard Milburn Academy shall post prominently on its Web site:

1. A list, in English and Spanish, of:
   a. The immunizations required by TDSHS for admission to public school;
   b. Any immunizations or vaccines recommended for public school students by TDSHS. The list must include the influenza vaccine, unless TDSHS requires the influenza vaccine for admission to public school; and
   c. Health clinics in Richard Milburn Academy's geographic boundaries that offer the influenza vaccine, to the extent those clinics are known to Richard Milburn Academy; and
2. A link to the TDSHS Internet Web site where a person may obtain information relating to the procedures for claiming an exemption from the immunization requirements. The link must be presented in the same manner as the information provided under paragraph 1.

Education Code 38.019.

Sec. 3. APPLICABILITY OF IMMUNIZATION REQUIREMENTS

The vaccine requirements discussed in this policy apply to all students entering, attending, enrolling in, and/or transferring to Richard Milburn Academy. *25 TAC 97.61(a)*.

a) ***Exceptions to Immunization Requirements***

Immunization is not required for admission if the student submits to Richard Milburn Academy any of the following:

i. *Medical Reasons*

An affidavit or a certificate signed by the student's physician (M.D. or D.O.) who is duly registered and licensed to practice medicine in the United States and who has examined the student. The affidavit or certificate must state that, in the physician's opinion, the immunization required is medically contraindicated or poses a significant risk to the health and well-being of the student or any member of the student's household. Unless it is written in the statement that a lifelong condition exists, the exemption statement is valid for only one year from the date signed by the physician.

ii. *Reasons of Conscience*

An affidavit signed by the student or, if a minor, the student's parent or legal guardian stating that the student declines immunization for reasons of conscience, including a religious belief. The affidavit will be valid for a two-year period. The affidavit must be on a form obtained from the TDSHS and must be submitted to the admitting official not later than the 90th day after the date the affidavit is notarized. A student who has not received the required immunizations for reasons of conscience may be excluded from school in times of emergency or epidemic declared by the commissioner of state health services.

iii. *Military Duty*

If the student can prove that he or she is a member of the armed forces of the United States and is on active duty.

Education Code 38.001(c), (c-1), (f); Health and Safety Code 161.004(a), (d), .0041; 25 TAC 97.62.

Sec. 4. PROVISIONAL ENROLLMENT

A student may be provisionally admitted or enrolled if the student has begun the required immunizations. The student must have an immunization record that indicates the student has received at least one dose of each age-appropriate vaccine specified in the regulations.

a) Completion of Vaccinations

To remain enrolled, the student must continue to receive the necessary immunizations as rapidly as medically feasible. The student must complete the required subsequent doses in each vaccine series on schedule and as rapidly as is medically feasible and provide acceptable evidence of vaccination to Richard Milburn Academy.

b) Status Review

Richard Milburn Academy shall review the immunization status of a provisionally enrolled student every 30 days to ensure continued compliance in completing the required doses of vaccination. If, at the end of the 30-day period, a student has not received a subsequent dose of vaccine, the student is not in compliance and Richard Milburn Academy shall exclude the student from school attendance until the required dose is administered.

Education Code 38.001(e); *25 TAC 97.66(a)*.

c) Homeless Students

A student who is homeless, as defined in the McKinney-Vento Homeless Assistance Act, shall be admitted temporarily for 30 days if acceptable evidence of vaccination is not available. Richard Milburn Academy shall promptly refer the student to appropriate health provider to obtain the required vaccinations. *25 TAC 97.66(b)*; *42 U.S.C. 11302*.

d) Child in Foster Care

A student who is a "child in foster care" as defined by 45 C.F.R. 1355.20(a) shall be admitted temporarily for 30 days if acceptable evidence of vaccination is not available. Richard

Milburn Academy shall promptly refer the student to an appropriate health provider to obtain the required vaccinations. *25 TAC 97.66(c)*.

e) Transfer Students

A student can be enrolled provisionally for no more than 30 days if the student transfers from one Texas school to another, and is awaiting the transfer of the immunization record. *25 TAC 97.69(a)*.

f) Military Dependents

A military dependent can be enrolled provisionally for no more than 30 days if the student transfers from one school to another and is awaiting the transfer of the immunization record. The collection and exchange of information pertaining to immunizations shall be subject to confidentiality provisions prescribed by federal law. *Education Code 162.002 art. IV, C*; *25 TAC 97.69(b)*.

Sec. 5. EVIDENCE OF IMMUNIZATION

A student shall show acceptable evidence of vaccination before entry, attendance, or transfer to Richard Milburn Academy.

Vaccines administered after September 1, 1991, shall include the month, day, and year each vaccine was administered. The following documentation is acceptable:

1. Documentation of vaccines administered that includes the signature or stamp of the physician or his or her designee, or public health personnel (immunization records generated from electronic health record systems must include clinic contact information and the provider's signature/stamp);
2. An official immunization record generated from a state or local health authority; or
3. An official record received from school officials including a record from another state.

25 TAC 97.68.

Serologic confirmations of immunity to measles, rubella, mumps, hepatitis A, hepatitis B, or varicella are acceptable. Evidence of measles, rubella, mumps, hepatitis A, hepatitis B, or varicella illnesses must consist of a valid laboratory report that indicates either confirmation of immunity or infection. A written statement from a parent, legal guardian, managing conservator, school nurse, or physician attesting to a child's positive history of varicella disease (chickenpox) or varicella immunity is acceptable in lieu of a vaccine record for that disease. *25 TAC 97.65*.

Sec. 6. IMMUNIZATION RECORDS

Richard Milburn Academy shall keep an individual immunization record during the period of attendance for each student admitted. The records shall be sufficient for a valid audit or other assessment to be completed. The records shall be open for inspection at all reasonable times by the Texas Education Agency, local health departments, or the TDSHS. Immunization records may be maintained in paper and/or electronic form. *Education Code 38.002(a)*; *25*

TAC 97.67.

a) ***Transfer of Records***

Richard Milburn Academy shall cooperate in transferring students' immunization records to other schools. Specific approval from students, parents, or guardians is not required before transferring those records. *Education Code 38.002(b)*.

b) ***Annual Report***

Richard Milburn Academy shall submit annual reports of the immunization status of students, in a format prescribed by and at the time and in the manner indicated by TDSHS, to monitor compliance with immunization requirements. *Education Code 38.002(c)*; *25 TAC 97.71*.

Sec. 7. CONSENT TO IMMUNIZATION

In addition to persons authorized to consent to immunization under Family Code Chapters 151 (parents) and 153 (conservators), the following persons may consent to the immunization of a child:

1. A guardian of the child; and
2. A person authorized under the law of another state or a court order to consent for the child.

Family Code 32.101(a).

Richard Milburn Academy may give consent to the immunization if:

1. The persons listed above are not available; and
2. Richard Milburn Academy has written authorization to consent from a person listed above.

Family Code 32.101(b)(5).

Richard Milburn Academy may not consent for the child if it has actual knowledge that a person listed above has:

1. Expressly refused to give consent to the immunization;
2. Been told not to consent for the child; or
3. Withdrawn a prior written authorization for Richard Milburn Academy to consent.

Family Code 32.101(c).

a) ***Consent by Child***

A child may consent to the child's own immunization for a disease if the child is pregnant or is the parent of a child and has actual custody of that child, and the Centers for Disease Control and Prevention recommend or authorize the initial dose of an immunization for that disease to be administered before seven years of age. Consent by a child to immunization is not subject to disaffirmance because of minority.

Family Code 32.1011.

b) ***Duty to Provide Information***

If Richard Milburn Academy consents to immunization of a child, it shall provide the health-care provider with sufficient with sufficient and accurate health history and other information necessary for the health-care provider to determine adequately the risks and benefits inherent in the proposed immunization and to determine whether immunization is advisable.

c) ***Form of Consent***

Consent to immunization must be in writing, signed by the person giving consent, and given to the doctor, hospital, or other medical facility that administers the treatment.

The consent must include:

1. The name of the child;
2. The name of one or both parents, if known, and the name of any managing conservator or guardian of the child; the name of the person giving consent and the person's relationship to the child;
3. A statement of the nature of the medical treatment to be given; and
4. The date the treatment is to begin.

Richard Milburn Academy has the responsibility to ensure that the consent, if given, is an informed consent. Richard Milburn Academy is not required to be present when the immunization is requested if a consent form has been given to the health-care provider.

Family Code 32.101(f), .002, .102.

d) ***Liability***

Richard Milburn Academy is not liable for damages arising from an immunization administered to a child authorized under Family Code Subchapter B except for injuries resulting from Richard Milburn Academy's own acts of negligence. *Family Code 32.103*.

PG-3.304 COMMUNICABLE DISEASES

Sec. 1. REPORTS

Richard Milburn Academy authorities, including the Superintendent, Principals, teachers, school health officials, or counselors, shall report to the local health authority those students attending school who are suspected of having a notifiable condition, as defined by state law and the Texas Department of State Health Services ("TDSHS"). If there is no local health authority appointed or if PC is outside the jurisdiction of a local health authority, the report shall be made to the regional director. *25 TAC 97.2(d), .5(a)*; *Health and Safety Code 81.041–.042*.

a) ***Sexually Transmitted Diseases and HIV***

In addition to the reporting requirements identified above, the Superintendent or designee shall report cases and suspected cases of sexually transmitted diseases in the manner outlined in 25 TAC 97.133. *25 TAC 97.132(a)(1)*.

b) ***Penalties***

A person commits a Class B misdemeanor if the person knowingly fails to report a reportable disease or health condition under Health and Safety Code Chapter 81, Subchapter B. *Health and Safety Code 81.049*.

Sec. 2. EXCLUSION FROM SCHOOL

Principals shall exclude from attendance any student suffering from a communicable condition listed in 25 TAC 97.7(a) until the readmission criteria for the condition are satisfied. *25 TAC 97.7(a)*.

Additionally, Principals shall exclude from attendance any student having or suspected of having a communicable disease designated by the Commissioner of State Health Services as a cause for exclusion. A child excluded for such reason may be readmitted, as determined by the health authority, by:

1. Submitting a certificate of an attending physician, advanced practice nurse, or physician assistant attesting that the child does not currently have signs or symptoms of a communicable disease or to the disease's non-communicability in a school setting;
2. Submitting a permit for readmission issued by a local health authority; or
3. Meeting readmission criteria set by the Commissioner of State Health Services.

25 TAC 97.7(b)-(c).

Sec. 3. BACTERIAL MENINGITIS

In accordance with guidelines provided by the Texas Education Agency, Richard Milburn Academy shall provide information relating to bacterial meningitis to its students and their parents each school year in a manner ensuring that the information is reasonably likely to come to the attention of the parents of each student. *Education Code 38.0025*.

Sec. 4. ISSUES RELATED TO HEAD LICE

a) ***No Exclusions from School***

Students should not be excluded from school due to the presence of head lice. The Centers for Disease Control and Prevention ("CDC"), the American Academy of Pediatrics, and the TDSHS have noted that there is little evidence that exclusion from school reduces the

transmission of head lice.

The goal of lice prevention and control in Richard Milburn Academy is to limit the spread of lice from one student to another through accurate diagnosis and meaningful and consistent communication and education.

b) ***Students with Head Lice***

When a student is suspected of having head lice, the school nurse or another school official shall inspect the child. Children shall be inspected by the school nurse or another school official with consideration for privacy and confidentiality.

When the school nurse or other school official determines or otherwise becomes aware that a child enrolled in an elementary grade has lice, Richard Milburn Academy shall provide written or electronic notice of that fact to:

1. The parent of the child with lice as soon as practicable, but not later than 48 hours after Richard Milburn Academy, determines or becomes aware of that fact; and

2. The parent of each child assigned to the same classroom as the child with lice not later than the fifth school day after the date on which Richard Milburn Academy determines or becomes aware of that fact.

The notices provided to parents will include the recommendations of the CDC for the treatment and prevention of lice, and the notice to the parent of each child assigned to the same classroom as the child with lice may not identify the child with lice.
Education Code 38.031.

PG-3.305 MEDICAL TREATMENT

Sec. 1. CONSENT TO MEDICAL TREATMENT

Richard Milburn Academy may consent to medical, dental, psychological, and surgical treatment of an enrolled student provided all of the following conditions are met:

1. The person having the power to consent as otherwise provided by law cannot be contacted.
2. Actual notice to the contrary has not been given by that person.
3. Written authorization to consent has been received from that person.

Family Code 32.001(a)(4).

a) ***Form of Consent***

Consent to medical treatment shall be in writing, signed by the school official giving consent, and given to the doctor, hospital, or other medical facility that administers the treatment. The consent must contain:

1. The name of the student;
2. The name of one or both parents or legal guardians, if known, and the name of the managing conservator or guardian of the student, if either has been appointed;
3. The name of the person giving consent and the person's relation to the student;
4. A statement of the nature of the medical treatment to be given; and
5. The date on which the treatment is to begin.

Family Code 32.002.

b) ***Minor's Consent to Treatment***

A minor may consent to medical, dental, psychological, and surgical treatment furnished by a licensed physician or dentist if the minor:

1. Is on active duty with the armed services of the United States of America;
2. Is 16 years of age and residing separate and apart from the minor's parents, managing conservator, or guardian, with or without the consent of the parents, managing conservator, or guardian and regardless of the duration of the residence, and is managing his or her own financial affairs, regardless of the source of theincome;
3. Consents to the diagnosis and treatment of any infectious, contagious, or communicable disease required to be reported to the Texas Department of State Health Services, including all reportable diseases under Health and Safety Code 81.041;
4. Is unmarried and pregnant, and consents to hospital, medical, or surgical treatment, other than abortion, related to her pregnancy;
5. Consents to examination and treatment for drug or chemical addiction, drug or chemical dependency, or any other condition directly related to drug or chemical use; or
6. Is unmarried, is the parent of a child, and has actual custody of his or her child and consents to medical, dental, psychological, or surgical treatment for the child.

Family Code 32.003.

c) ***Purchasing Medication***

Richard Milburn Academy shall not purchase nonprescription medication to administer to a student except as permitted under Board Policy 3.306 relating to the purchase of Epinephrine Auto-Injectors or Opioid Antagonist Medication for administration on an emergency basis.

Sec. 2. SUNSCREEN PRODUCTS

A student may possess and use a topical sunscreen product while on school property or at a school- related event or activity to avoid overexposure to the sun and not for the medical treatment of an injury or illness if the product is approved by the federal Food and Drug Administration for over- the-counter use. *Education Code 38.021*.

Sec. 3. SELF-ADMINISTRATION OF ASTHMA OR ANAPHYLAXIS MEDICINE

A student with asthma or anaphylaxis may possess and self-administer prescription asthma or

anaphylaxis medicine while on school property or at a school-related event or activity if:

1. The prescription medicine has been prescribed for that student as indicated by the prescription label on the medicine;
2. The student has demonstrated to the student's physician or other licensed health care provider and the school nurse, if available, the skill level necessary to self-administer the prescription medication, including the use of any device required to administer the medication;
3. The self-administration is done in compliance with the prescription or written instructions from the student's physician or other licensed health care provider; and
4. A parent of the student provides to Richard Milburn Academy:
   a. Written authorization, signed by the parent, for the student to self-administer the prescription medicine while on school property or at a school-related event or activity; and
   b. A written statement, signed by the student's physician or other licensed health care provider, that states:
      (1) That the student has asthma or anaphylaxis and is capable of self-administering the prescription medicine;
      (2) The name and purpose of the medicine;
      (3) The prescribed dosage for the medicine;
      (4) The times at which or circumstances under which the medicine may be administered; and
      (5) The period for which the medicine is prescribed.

The physician's statement must be kept on file in the school nurse's office, or, if there is no school nurse, in the office of the Principal of the school the student attends.

Education Code 38.015.

Sec. 4. DIETARY SUPPLEMENTS

A Richard Milburn Academy employee commits a Class C misdemeanor offense if the employee:

1. Knowingly sells, markets, or distributes a dietary supplement that contains performance enhancing compounds to a primary or secondary education student with whom the employee has contact as part of the employee's school duties; or
2. Knowingly endorses or suggests the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by a primary or secondary education student with whom the employee has contact as part of the employee's school duties.

Education Code 38.011(a), (c).

Sec. 5. PRESCRIPTION MEDICATION AND SPECIAL EDUCATION STUDENTS

A Richard Milburn Academy employee is prohibited from requiring a child to obtain a prescription for a substance covered under the federal Controlled Substances Act (21 U.S.C. 801 et seq.) as a condition of attending school, receiving an evaluation for special education, or receiving special education and related services. An employee is not prohibited from

consulting or sharing classroom-based observations with parents or guardians regarding a student's academic and functional performance, behavior in the classroom or school, or the need for evaluation for special education or related services. *20 U.S.C. 1412(a)(25)*.

Sec. 6. STUDENT ILLNESS

The Superintendent or designee shall establish procedures to ensure that proper attention is given to a student who becomes ill during the school day.

Sec. 7. ACCIDENTS INVOLVING STUDENTS

The Superintendent or designee shall establish emergency procedures to ensure appropriate attention for a student injured at school. Richard Milburn Academy shall maintain records on all accidents requiring the attention of a medical doctor.

Sec. 8. EMERGENCY TREATMENT FORMS

Each year, students and parents shall complete and sign a form that provides emergency information and authorizes school officials to obtain emergency medical treatment, as provided by law.

PG-3.306 ADMINISTERING MEDICATION AT SCHOOL

Sec. 1. STANDARDS FOR ADMINISTERING MEDICATION AT SCHOOL

All medications administered to students shall be FDA-approved pharmaceuticals administered within their approved dosage and within standards of acceptable medical regimen. Research pharmaceuticals may be administered if they are a part of a University Institutional Review Board- approved protocol. Intravenous (IV) medications and treatments shall not be administered by Richard Milburn Academy personnel.

Sec. 2. AUTHORIZED PERSONNEL

Richard Milburn Academy employees shall not give any student prescription medication, nonprescription medication, herbal substances, or dietary supplements of any type, except as provided below. Employees authorized by the Superintendent or designee may administer to students:

a) Administering Prescription Medication

Prescription medication upon written request to administer the medication from the student's parent, guardian, or other person having legal control of the student. When administering prescription medication, the medication must be administered either:

1. From a container that appears to be from the original container and properly labeled; or
2. From a properly labeled unit dosage container filled by a registered nurse from a container that appears to be the original container and to be properly labeled.

All prescription medications shall have been prescribed by a physician licensed to practice medicine in the United States. All medications shall have been manufactured in the United States.

Texas Department of State Health Services Guide to Medication Administration in the School Setting

b) Administering Nonprescription Medication

i. Nonprescription Medication Administered upon Parent Request

When properly labeled and in the original container; nonprescription medication may be administered by authorized Richard Milburn Academy personnel upon a parent's written request, or if required by the individualized education program ("IEP") or Section 504 plan of a student with disabilities.

ii. Nonprescription Medication Administered on Emergency Basis

Authorized Richard Milburn Academy personnel may administer nonprescription medication on an emergency basis and consistent with protocols established by Richard Milburn Academy's medical adviser, or in accordance with standards discussed in this Policy.

Parental consent is not required for the administration of nonprescription medication on an emergency basis under this policy, but a parent or guardian may provide written notice to a campus principal or designee if conditions exist in which their child should not receive nonprescription medication at school.

c) Herbal Substances or Dietary Supplements

Herbal substances or dietary supplements may be administered by authorized Richard Milburn Academy personnel **only if** required by the IEP or Section 504 plan of a student with disabilities.

d) Provision of Medication Off-Campus at School-Sponsored Events

For any Richard Milburn Academy student attending a field trip or off-campus school-sponsored event, any prescription medication that Richard Milburn Academy is required to administer under this policy shall be sent with the student's teacher or another staff member trained in the proper administration of medication and who has been authorized to administer medication by the Superintendent or designee, along with instructions on the administration of the medication.

In addition to trained and authorized Richard Milburn Academy teacher(s) and/or nurse(s), a licensed physician in Texas, a registered nurse licensed in Texas, or a vocational nurse licensed in Texas may serve as a Richard Milburn Academy volunteer to administer prescription and non- prescription medication in accordance with this policy when on field trips and/or off-campus or on school-sponsored events. Prior to being allowed to do so, such individuals must

meet with the school nurse for instruction and training on administration of medication for applicable students.

Nonprescription medication(s) generally are not administered by Richard Milburn Academy during field trips and/or off-campus or on school-sponsored events.

In the event of an emergency medical situation involving a Richard Milburn Academy student for which no Richard Milburn Academy employee was previously aware and that occurs during a field trip and/or during an off-campus, school-sponsored event when no school nurse is present, emergency medical services shall immediately be notified by any Richard Milburn Academy employee in attendance.

Sec. 3. PSYCHOTROPICS

Except as permitted by Education Code 38.016, a Richard Milburn Academy employee shall not:

1. Recommend to a student, parent that the student use a psychotropic drug;
2. Suggest a particular diagnosis; or
3. Exclude the student from a class or a school-related activity because of the parent's refusal to consent to psychiatric evaluation or examination or treatment of the student.

Education Code 38.016.

Sec. 4. OPIOID ANTAGONIST MEDICATION

a) General Guidelines

The Board authorizes purchase of Opioid Antagonist Medication for use in a manner consistent with this policy and determines that such purchases are necessary in the conduct of the public school.

Richard Milburn Academy's policy concerning the maintenance, administration, and disposal of opioid antagonists will apply to campuses of the school serving students in grades 9 through 12. *Education Code 38.222(b)*.

School personnel and school volunteers who are authorized and trained may administer an opioid antagonists to a person who is reasonably believed to be experiencing an opioid-related drug overdose. *Education Code 38.222(c)(1)*.

Such authorized and trained school employees and volunteers may administer the opioid antagonist medication on a school campus or at a school sponsored event in accordance with this policy and applicable administrative regulations.

For purposes of this policy, an "opioid-related drug overdose" means a condition, evidenced by symptoms such as extreme physical illness, decreased level of consciousness, constriction of the pupils, respiratory depression, or coma, that a layperson would reasonably believe to be the result of the consumption or use of an opioid. *Health and Safety Code 483.101*.

b) Prescription for Opioid Antagonists

A physician or person who has been delegated prescriptive authority under Chapter 157, Occupations Code, may

prescribe opioid antagonists in the name of Richard Milburn Academy. A physician or other person who prescribes opioid antagonists shall provide Richard Milburn Academy with a standing order for the administration of an opioid antagonist to a person reasonably believed to be experiencing an opioid-related drug overdose. The standing order is not required to be patient-specific, and the opioid antagonist may be administered to a person without a previously established physician-patient relationship.

A standing order under this policy must contain:

1) The name and signature of the prescribing physician or other person;
2) The name of the school to which the order is issued;
3) The quantity of opioid antagonists to be obtained and maintained under the order; and
4) The date of issue.

A pharmacists may dispense an opioid antagonist to Richard Milburn Academy without requiring the name or any other identifying information relating to the user.

Education Code 38.225.

c) Maintenance and Availability

Opioid antagonist medication shall be stored in secure locations accessible by designated and trained employees, and in accordance with the drug manufacturer's instructions. Opioid antagonist medication shall be made readily available to designated employees who have completed the required training to administer in the event of suspected drug overdose. All designated and properly trained employees shall be made aware of the exact location of the opioid antagonist medication.

The campus principal or designee shall regularly inventory and verify opioid antagonist medication supply, and maintain records thereof, in accordance with the established internal procedures and manufacturer recommendations. Expired, damaged, or used opioid antagonist medication shall be disposed of in accordance with established medical waste disposal procedures.

Richard Milburn Academy shall require that each school campus subject to Section 4 of this policy have one or more school personnel or volunteers authorized and trained to administer an opioid antagonist present during regular school hours.

Education Code 38.222(b).

d) Training Requirements

Before any school employee or volunteer may have custody of or administer an opioid antagonist medication under this policy, the employee must successfully complete an annual training program provided by Richard Milburn Academy. A list of employees who successfully complete such training shall be maintained, updated, and kept in Richard Milburn Academy's administrative office.

Trainings provided by Richard Milburn Academy must:

1) Include information on:
   a. Recognizing the signs and symptoms of an opioid-related drug overdose;
   b. Administering an opioid antagonist;
   c. Implementing emergency procedures, if necessary, after administering an opioid antagonist; and
   d. Properly disposing of used or expired opioid antagonists;
2) Be provided in a formal training session or through online education; and
3) Be provided in accordance with Richard Milburn Academy's policy on professional development, as applicable.

Education Code 38.224.

e) Required Reporting

Not later than the 10th business day after the date a school personnel member or school volunteer administers an opioid antagonist in accordance with this policy, Richard Milburn Academy shall report the information described below to:

1. The Board of Directors;
2. The physician or other person who prescribed the opioid antagonist; and
3. The Commissioner of State Health Services.

The report must include the following information:

1. The age of the person who received the administration of the opioid antagonist;
2. Whether the person who received the administration of the opioid antagonist was a student, a school personnel member or school volunteer, or a visitor;
3. The physical location where the opioid antagonist was administered;
4. The number of doses of opioid antagonist administered;
5. The title of the person who administered the opioid antagonist; and
6. Any other information required by the commissioner of education.

Education Code 38.223.

f) Immunity from Liability

A person who in good faith takes, or fails to take, any action under Section 4 of this policy or under Subchapter E-1, Chapter 38 of the Education Code, is immune from civil or criminal liability or disciplinary action resulting from that action or failure to act. *Education Code 38.227*.

g) Gifts, Grants, and Donations

Richard Milburn Academy may accept gifts, grants, donations, and federal and local funds to implement Section 4 of this policy. *Tex. Educ. Code 38.226*.

h) Administrative Regulations

The Superintendent or designee shall adopt administrative regulations to assist with implementation of Section 4 of this policy. Such regulations shall establish the number of opioid antagonists that must be available at each campus at any given time, and require that the supply of opioid antagonists at each school campus must be stored in a secure location and be easily accessible to school personnel and school volunteers authorized and trained to administer an opioid antagonist. *Education Code 38.222(c)(3), (4)*.

Sec. 5. EPINEPHRINE AUTO-INJECTORS

a) General Guidelines

The Board authorizes purchase of unassigned epinephrine auto-injectors in a manner consistent with this Policy and determines that such purchases are necessary in the conduct of the public school.

For purposes of this policy, the term “epinephrine auto-injector” means a disposable medical drug delivery device that contains a premeasured single dose of epinephrine that is intended to be used to treat anaphylaxis.

Richard Milburn Academy authorizes school personnel and volunteers who are authorized and trained to administer an epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis on a school campus. School personnel and volunteers who are authorized and trained may also administer an epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis at an off-campus school event or while in transit to or from a school event. *Education Code 28.208(b)*.

Richard Milburn Academy must ensure that each campus has one or more personnel or volunteers authorized and trained to administer an epinephrine auto-injector present during all hours a campus is open. *Education Code 38.208(d)*.

The supply of epinephrine auto-injectors at each campus must be stored in a secure location and be easily accessible to school personnel and volunteers authorized and trained to administer an epinephrine auto-injector. *Education Code 38.208(e)*.

Richard Milburn Academy employees and volunteers may not be subject to any penalty or disciplinary action for refusing to administer or receive training to administer epinephrine auto-injectors. *Education Code 38.208(d-2)*.

b) Prescription of Epinephrine Auto-Injectors

A physician or person who has been delegated prescriptive authority under Chapter 157, Occupations Code, may prescribe epinephrine auto-injectors in the name of Richard Milburn Academy. A physician or other person who prescribes epinephrine auto-injectors shall provide Richard Milburn Academy with a standing order for the administration of, as applicable, an epinephrine auto-injector to a person reasonably believed to be experiencing anaphylaxis.

The standing order is not required to be patient-specific, and the epinephrine auto-injector may be administered to a person without a previously established physician-patient relationship.

The standing order must contain:

1) The name and signature of the prescribing physician or other person;
2) The name of the school to which the order is issued;
3) As applicable, the quantity of epinephrine auto-injectors to be obtained and maintained under the order; and
4) The date of issue.

A pharmacists may dispense an epinephrine auto-injector without requiring the name of any other identifying information relating to the user.

Education Code 38.211.

c) Required Reporting

Not later than the 10th business day after the date a school personnel member or school volunteer administers an epinephrine auto-injector in accordance with Section 5 of this policy, Richard Milburn Academy shall report the information described below to:

1) The Board of Directors;
2) The physician or other person who prescribed the epinephrine auto-injector to Richard Milburn Academy; and

3) The Commissioner of State Health Services.

The report required under this section must include the following information:

1) The age of the person who received the administration of the epinephrine auto-injector;
2) Whether the person who received the administration of the epinephrine auto-injector was a student, a school personnel member or school volunteer, or a visitor;
3) The physical location where the epinephrine auto-injector was administered;
4) The number of doses of epinephrine auto-injector administered;
5) The title of the person who administered the epinephrine auto-injector; and
6) Any other information required by the Commissioner of Education.

Education Code 38.209.

d) Training Requirements

Richard Milburn Academy is responsible for training school personnel and school volunteers in the administration of an epinephrine auto-injector. The training must include information on:

1) Recognizing the signs and symptoms of anaphylaxis;
2) Administering an epinephrine auto-injector;
3) Implementing emergency procedures, if necessary, after administering an epinephrine auto-injector; and
4) Properly disposing of used or expired epinephrine auto-injectors.

Training required under this section must be provided:

1) In a formal training session or through online education; and
2) In accordance with Richard Milburn Academy's policy on professional development.

Richard Milburn Academy shall maintain records on the training required under this section.

Education Code 38.210(a), (b), (c).

e) Notice to Parents

Richard Milburn Academy shall provide written notice of the school's policy on the administration of epinephrine auto-injectors to parents of each student enrolled in Richard Milburn Academy. Such notice must be provided before the start of each school year. *Education Code 38.212*.

f) Gifts, Grants, and Donations

Richard Milburn Academy may accept gifts, grants, donations, and federal and local funds to implement Section 5 of this policy. *Tex. Educ. Code 38.226*.

g) Immunity from Liability

A person who in good faith takes, or fails to take, any action under Section 5 of this policy or under Subchapter E, Chapter 38 of the Education Code, is immune from civil or criminal liability or disciplinary action resulting from that action or failure to act. *Education Code 38.215*.

Sec. 6. UNASSIGNED MEDICATION FOR RESPIRATORY DISTRESS

a) General Guidelines

The Board authorizes purchase of unassigned medication for respiratory distress in a manner consistent with this Policy and determines that such purchases are necessary in the conduct of the public school.

For purposes of this Policy, "medication for respiratory distress" means albuterol, levalbuterol, or another medication designated by the Health and Human Services Commission for the treatment For purposes of this Policy, "medication for respiratory distress" means albuterol, levalbuterol, or another medication designated by the Health and Human Services Commission for the treatment of respiratory distress. *Education Code 38.201(3-a)*.

School personnel and school volunteers who are authorized and trained may administer medication for respiratory distress to a person reasonably believed to be experiencing respiratory distress on a school campus, or at a school-sponsored or school-related activity on or off school property. *Education Code 38.208(b-1)*.

Richard Milburn Academy will ensure that each campus has one or more personnel authorized and trained to administer medication for respiratory distress present during regular school hours. *Education Code 38.208(d-1)*.

The supply of medication for respiratory distress at each campus must be stored in a secure location and be easily accessible to authorized school personnel and school volunteers. *Education Code 38.208(e-1*).

Richard Milburn Academy employees and volunteers may not be subject to any penalty or disciplinary action for refusing to administer or receive training to administer medication for respiratory distress. *Education Code 38.208(d-2)*.

Richard Milburn Academy is not required to purchase medication for respiratory distress or require any other expenditure related to the maintenance or administration of medication for respiratory distress that would result in a negative fiscal impact on Richard Milburn Academy. *Education Code 38.208(f)*.

b) Prescription of Medication for Respiratory Distress

A physician or person who has been delegated prescriptive authority under Chapter 157, Occupations Code, may prescribe medication for respiratory distress in the name of Richard Milburn Academy. A physician or other person who prescribes medication for respiratory distress shall provide Richard Milburn Academy with a standing order for the administration of, as applicable, medication for respiratory distress to a person reasonably believed to be experiencing respiratory distress.

The standing order is not required to be patient-specific, and medication for respiratory distress may be administered to a person without a previously established physician-patient relationship.

The standing order must contain:

1) The name and signature of the prescribing physician or other person;
2) The name of the school to which the order is issued;
3) As applicable, the quantity and types of medications for respiratory distress to be obtained and maintained under the order; and
4) The date of issue.

A pharmacists may dispense medication for respiratory distress without requiring the name of any other identifying information relating to the user.

Education Code 38.211.

c) Information to Parents

If medication for respiratory distress is administered to a student whose parent has not provided notification to Richard Milburn Academy that the student has been diagnosed with asthma, the school must refer the student to the student's primary care provider on the day the medication for respiratory distress is administered and inform the student's parent regarding the referral. The referral must include:

1. The symptoms of respiratory distress observed;
2. The name of the medication for respiratory distress administered to the student; and
3. Any patient care instructions given to the student.

Education Code 38.208(b-2).

If a student who has received medication for respiratory distress does not have a primary care provider or the parent has not engaged a primary care provider for the student, the student's parent must receive information to assist the parent in selecting a primary care provider for the student. *Education Code 38.208(b-3)*.

d) Required Reporting

Not later than the 10th business day after the date a school personnel member or school volunteer administers medication for respiratory distress to a person experiencing respiratory distress in accordance with this Policy, Richard Milburn Academy shall report the information described below to:

1) The Board of Directors;
2) The physician or other person who prescribed the medication for respiratory distress; and
3) The Commissioner of State Health Services.

The report required under this section must include the following information:

1) The age of the person who received the administration of the medication for respiratory distress;
2) Whether the person who received the administration of the medication for respiratory distress was a student, a school personnel member or school volunteer, or a visitor;
3) The dosage of the medication for respiratory distress administered;

4) The title of the person who administered the medication for respiratory distress; and
5) Any other information required by the commissioner of education.

Education Code 38.2091.

e) Training Requirements

Richard Milburn Academy is responsible for training school personnel and school volunteers in the administration of medication for respiratory distress. The training must include information on:

1) Recognizing the signs and symptoms of respiratory distress;
2) Administering medication for respiratory distress;
3) Implementing emergency procedures, if necessary, after administering medication for respiratory distress; and
4) Proper sanitization, reuse, and disposal of medication for respiratory distress.

Training required under this section must be provided:

1) In a formal training session or through online education; and
2) In accordance with Richard Milburn Academy's policy on professional development.

Education Code 38.210(a-1), (b).

f) Notice to Parents

Richard Milburn Academy shall provide written notice of the school's policy on the administration of medication for respiratory distress to parents of each student enrolled in Richard Milburn Academy. Such notice must be provided before the start of each school year. *Education Code 38.212*.

g) Gifts, Grants, and Donations

Richard Milburn Academy may accept gifts, grants, donations, and federal and local funds to implement Section 6 of this policy. *Tex. Educ. Code 38.226*.

h) Immunity from Liability

A person who in good faith takes, or fails to take, any action under Section 6 of this policy or under Subchapter E, Chapter 38 of the Education Code, is immune from civil or criminal liability or disciplinary action resulting from that action or failure to act. *Education Code 38.215*.

6) The title of the person who administered the medication for respiratory distress; and
7) Any other information required by the commissioner of education.

Education Code 38.2091.

Sec. 7. ADMINISTRATIVE REGULATIONS REQUIRED

The Superintendent shall develop administrative regulations to manage the implementation of this policy in accordance with law and best practices disseminated by medical professionals, law enforcement, state and federal health agencies, and other credible health organizations. The administrative regulations shall address administering the authorized medication, training requirements for authorized staff, the process for the acquisition or purchase of the authorized medication, and the maintenance, expiration, disposal, and availability of the authorized medication at each campus.

PG-3.307 STUDENTS AT RISK FOR ANAPHYLAXIS AND SEIZURE MANAGEMENT PLANS

Sec. 1. STUDENTS AT RISK FOR ANAPHYLAXIS

a) Welfare Plan

The Board shall adopt and implement a plan for the care of students with a diagnosed food allergy at risk for anaphylaxis based on "*Guidelines for the Care of Students With Food Allergies At-Risk for Anaphylaxis*," as developed by the Commissioner of State Health Services.

The Board shall annually review and, as necessary, revise its policy for the care of students

with a diagnosed food allergy risk for anaphylaxis to ensure the policy is consistent with the most current version of the "*Guidelines for the Care of Students With Food Allergies At-Risk for Anaphylaxis*."

The adoption and implementation of such plan does not waive any liability or immunity of Richard Milburn Academy or its officers or employees, or create any liability for or cause of action against Richard Milburn Academy or its officers or employees.

b) ***Required Website Posting***

Each school year, Richard Milburn Academy shall post a summary of the "*Guidelines for the Care of Students With Food Allergies At-Risk for Anaphylaxis*" on the Richard Milburn Academy website, including instructions on obtaining access to the complete guidelines document. The Richard Milburn Academy website must be accessible by each enrolled student and a parent or guardian of each student.

Any forms used by Richard Milburn Academy requesting information from a parent or guardian enrolling a child with a food allergy must include information to access on Richard Milburn Academy's website a summary of the guidelines and instructions on obtaining access to the complete guidelines document.

Education Code 38.0151(b).

Sec. 2. FOOD ALLERGY MANAGEMENT

The Superintendent or designee shall develop and implement a student food allergy management plan for students at risk for anaphylaxis that incorporates the following components:

a) General Procedures

Procedures to limit the potential health risks to students with food allergies will include:

1. Specialized training for the employees responsible for the development, implementation, and monitoring of Richard Milburn Academy's food allergy management plan;
2. Training for employees regarding signs and symptoms of food allergies and emergency response in the event of an anaphylactic reaction;
3. General strategies to reduce the risk of exposure to common food allergies;
4. Methods for requesting and obtaining food allergy information from the parent of a student with a diagnosed food allergy; and
5. The annual review of Richard Milburn Academy's food allergy management plan.

b) Students at Risk for Anaphylaxis

Procedures for the care of students with diagnosed food allergies who are at risk for anaphylaxis will include:

1. Development and implementation of food allergy action plans, emergency action plans, and Section 504 plans, as appropriate;
2. Training, as necessary, for employees, including strategies for reducing student risk of exposure to diagnosed allergens; and
3. Periodic review of general procedures to limit the potential health risks to students.

c) Distribution

The Superintendent shall distribute information regarding this policy and Richard Milburn Academy's food allergy management plan annually in the student handbook. Information will also be made available at each Richard Milburn Academy campus.

Sec. 3. SEIZURE MANAGEMENT AND TREATMENT PLANS

a) General Requirements

The parent or guardian of a student with a seizure disorder may seek care for the student's seizures while the student is at school or participating in a school activity by submitting to Richard Milburn Academy a copy of a seizure management and treatment plan developedby the student's parent or guardian and the physician responsible for the student's seizure treatment. A seizure management and treatment plan must be submitted to and reviewed by Richard Milburn Academy:

1. Before or at the beginning of the school year;
2. On enrollment of the student if the student enrolls after the beginning of the school year; or
3. As soon as practicable following a diagnosis of a seizure disorder for the student.

Education Code 38.032(a).

i. *Requirements for Seizure Management Plans Submitted before January 1, 2024*

A seizure management and treatment plan must:

1. Identify the health care services the student may receive at school or while participating in a school activity;
2. Evaluate the student's ability to manage and level of understanding of the student's seizures; and
3. Be signed by the student's parent or guardian and the physician responsible for the student's seizure treatment.

ii. *Requirements for Seizure Management Plans Submitted after January 1, 2024*

A seizure management and treatment plan must be submitted on the form adopted by the Texas Education Agency and provide the following:

1. The student's name and date of birth;
2. The names and contact information of the student's parent and the physician responsible for the student's seizure treatment, and at least one other emergency contact;

3. Any medical history significant to the student's seizure disorder;
4. The type, length, and frequency of the student's seizures;
5. A description of each type of seizure the student has experienced;
6. The student's seizure triggers or warning signs;
7. The student's ability to manage seizures and the student's level of understanding of the seizures;
8. The student's response after a seizure;
9. The basic first aid to be provided to the student during a seizure, including whether the student needs to leave the classroom after a seizure and the process for the student's return to the classroom, if applicable;
10. A description of what constitutes a seizure emergency for the student;
11. A description of seizure emergency protocol for school personnel to follow in the event of a seizure emergency for the student;
12. A treatment protocol for any medications or other procedures to be administered by school personnel to the student during school hours, including:

a. Each daily or emergency medication, including (i) the name and dosage of the medication and the time at which the medication is to be given; (ii) common side effects for the medication; and (iii) any special instructions regarding the medication; and
b. Whether the student has a vagus nerve stimulator and, if so, appropriate magnet use for the stimulator;

13. Any special considerations or precautions applicable to the students; and
14. The signature of the student's parent and the physician responsible for the student's seizure treatment.

Education Code 38.032(b).

b) Immunity Protections

The care of a student with a seizure disorder by a Richard Milburn Academy employee under a seizure management plan is incident to or within the scope of the duties of the employee's position of employment and involves the exercise of judgment or discretion on the part of the employee for purposes of Education Code 22.0511. *Education Code 38.032(c)*.

The immunity from liability provided by Education Code 22.0511 applies to an action or failure to act by a Richard Milburn Academy employee in administering a medication, assisting with self- administration, or otherwise providing for the care of a student under a seizure management plan submitted for the student. *Education Code 38.032(d)*.

PG-3.308 NOTICE REGARDING STEROID USE

The Superintendent or designee shall ensure that the notice regarding legal restrictions on anabolic steroids required by Education Code 38.008 is posted in a conspicuous location in the gymnasium of each school in which there is a grade level of seven or higher and in each other place in a building where physical education classes are conducted.

Specifically, the notice shall state:

Anabolic steroids are for medical use only. State law prohibits possessing, dispensing, delivering, or administering an anabolic steroid in any manner not allowed by state law. State law provides that body building, muscle enhancement, or the increase of muscle bulk or strength through the use of an anabolic steroid or human growth hormone by a person who is in good health is not a valid medical purpose. Only a medical doctor may prescribe an anabolic steroid or human growth hormone for a person. A violation of state law concerning anabolic steroids or human growth hormones is a criminal offense punishable by confinement

in jail or imprisonment in the Texas Department of Criminal Justice.

Education Code 38.008.

PG-3.309 WELLNESS POLICY

Sec. 1. POLICY REQUIREMENTS

Richard Milburn Academy must establish a local wellness policy for all schools participating in the National School Lunch Program and/or School Breakfast Program. The local wellness plan shall be a written plan that includes methods to promote student wellness, prevent and reduce childhood obesity, and provide assurance that school meals and other food and beverages sold and otherwise made available on the school campus during the school day are consistent with applicable minimum Federal standards. *7 C.F.R. 210.31(a)*.

Sec. 2. DEFINITIONS

"School day" means the period from the midnight before, to 30 minutes after the end of the official school day. *7 C.F.R. 210.11(a)(5)*.

"School campus" means all areas of the property under the jurisdiction of Richard Milburn Academy that are accessible to students during the school day. *7 C.F.R. 210.11(a)(4)*.

Sec. 3. WELLNESS

Richard Milburn Academy shall follow nutrition guidelines that advance student health and reduce childhood obesity and shall promote the general wellness of all students by implementing measurable goals to promote sound nutrition and health through nutrition education, physical activity, and other school-based activities.

Sec. 4. DEVELOPMENT OF LOCAL WELLNESS PLAN

The Superintendent or designee shall appoint a school wellness council ("SWC") to review and consider evidence-based strategies and techniques and to develop nutrition guidelines and wellness goals as required by law. In developing, implementing, and reviewing the guidelines and goals of the local wellness plan, the SWC will allow participation by parents; students; representatives of Richard Milburn Academy's food service provider; Richard Milburn Academy physical education teachers, campus and/or district-level administrators, and school health professionals; Board members; and community members.

The SWC shall develop a wellness policy to implement Richard Milburn Academy's nutrition guidelines and goals. The local wellness plan must address, at a minimum:

1. Strategies for soliciting involvement by and input from individuals interested in the wellness plan and policy;
2. Activities, benchmarks, and objectives for implementing wellness goals;
3. Methods for measuring implementation of wellness goals;
4. Richard Milburn Academy's standards for foods and beverages provided (but not sold) to students during the school day and while on campus; and

5. Methods for communicating to the public information about Richard Milburn Academy's local wellness plan.

The SWC will review and revise the wellness plan on a regular basis, and recommend revisions to the plan when necessary.

Sec. 5. NUTRITION GUIDELINES

Richard Milburn Academy's nutrition guidelines for reimbursable school meals and other foods and beverages sold or marketed to students during the school day will be designed to promote student health and reduce childhood obesity and shall be at least as restrictive as federal regulations and guidance, except when Richard Milburn Academy allows an exemption for allowable fundraising activities.

Richard Milburn Academy shall also establish standards for all foods and beverages provided (but not sold) to students during the school day; these standards must be included in the school wellness plan.

Sec. 6. WELLNESS GOALS

a) Nutrition Education

Richard Milburn Academy shall implement, in accordance with law, a coordinated health program with a nutrition education component and shall use health course curriculum that emphasizes the importance of proper nutrition. This program will encourage participation in the National School Lunch Program, the School Breakfast Program, and any other supplemental nutrition and food programs offered by Richard Milburn Academy.

Additionally, Richard Milburn Academy establishes the following goals for nutrition education:

1. Students will receive nutrition education that fosters the adoption and maintenance of healthy eating behaviors.
2. Nutrition education will be a Richard Milburn Academy-wide priority and will be integrated into other areas of the curriculum, as appropriate.
3. Staff responsible for nutrition education will be adequately prepared and will participate in professional development activities to effectively deliver theprogram as planned.
4. The food service staff, teachers, and other school personnel will coordinate the promotion of nutrition messages in the cafeteria, the classroom, and other appropriate settings.
5. Educational nutrition information will be shared with families and the general public to positively influence the health of students and community members.

b) Physical Activity

Richard Milburn Academy shall implement, in accordance with law, a coordinated health program with physical education and physical activity components and shall offer at least the amount of physical activity for all grades required by the Texas Education Code or Commissioner Rule.

In addition, Richard Milburn Academy establishes the following goals for physical activity:

1. Richard Milburn Academy will provide an environment that fosters safe and enjoyable fitness activities for all students, including those who are not participating in competitive sports.
2. Physical education classes will regularly emphasize moderate to vigorous activity.
3. Richard Milburn Academy will encourage teachers to integrate physical activity into the academic curriculum where appropriate.
4. Richard Milburn Academy will encourage parents to support their children's participation, to be active role models, and to include physical activity in family events.

c) Other School-Based Activities

Richard Milburn Academy establishes the following goals for creating an environment conducive to healthy nutrition and physical activity and to promote a consistent wellness message to the school community:

1. Richard Milburn Academy shall allow sufficient time for students to eat meals in facilities that are clean, comfortable, and safe.
2. Richard Milburn Academy shall promote employee wellness activities and involvement at suitable school activities.

Sec. 7. IMPLEMENTATION

The Superintendent or designee shall oversee the implementation of this policy and the development of the local wellness plan and appropriate administrative procedures related to this wellness policy.

Sec. 8. EVALUATION

Richard Milburn Academy shall comply with federal requirements for evaluating this policy and the wellness plan. Generally, Richard Milburn Academy's compliance with the local wellness plan shall be assessed at least once every three years. The Superintendent or designee shall conduct the assessment, which will consider:

1. The extent to which each school is in compliance with the local school wellnesspolicy;
2. The extent to which the local school wellness policy aligns with model local school wellness policies; and
3. A description of the progress made toward attaining the goals described in thelocal wellness plan.
4.

Sec. 9. PUBLIC NOTIFICATION

Richard Milburn Academy must annually inform and update the public about the content and implementation of this wellness policy, and make the policy and any updates, along with the local wellness plan and program assessments, available to the public.

Sec. 10. RECORDS RETENTION

Richard Milburn Academy shall retain all the required records associated with the wellness policy as required by law[1] and Richard Milburn Academy's record management program.

42 U.S.C. 1758b, 7 C.F.R. Part 210.

[1] Richard Milburn Academy may refer to the Texas Department of Agriculture, Food and Nutrition Division's "Administrator's Reference Manual (ARM") for the School Nutrition Program for guidance on record retention requirements.

PG-3.310 HEALTH SCREENINGS AND PHYSICAL EXAMINATIONS

Sec. 1. PHYSICAL FITNESS ASSESSMENT

Richard Milburn Academy shall annually assess the physical fitness of students in grades 9 or higher using an assessment instrument adopted by the Commissioner of State Health Services ("CSHS") (currently FitnessGram®). *Education Code 38.101(a), .102(a)*.

Richard Milburn Academy is not required to assess a student for whom, as a result of disability or other condition identified by CSHS rule, the assessment instrument is inappropriate. *Education Code 38.101(b)*.

a) *Report to Texas Education Agency ("TEA")*

Richard Milburn Academy shall compile the results of the physical fitness assessment and provide summary results, aggregated by grade level and any other appropriate category identified by CSHS rule, to the TEA. The summary results may not contain the names of individual students or teachers, or a student's date of birth or social security number.

b) *Assessment Confidentiality*

The results of individual student performance on the physical fitness assessment instrument are confidential and may be released only in accordance with state and federal law. *Education Code 38.103*.

Sec. 2. SCREENINGS: VISION AND HEARING

As soon as possible after admission and within a period set by CSHS rule, a student required to be screened shall undergo approved screening for vision and hearing disorders and any other special senses and communication disorders specified by the Texas Department of State Health Services (the "TDSHS). *Health and Safety Code 36.005(a)*.

a) *Superintendent's Responsibility*

The Superintendent shall ensure that each student admitted to Richard Milburn Academy complies with the screening requirements set by the TDSHS or submits an affidavit of exemption. *Health and Safety Code 36.005(c)*.

b) ***Screening Schedule: Screening on Enrollment***

Students thirteen years of age and older, who are enrolled in Richard Milburn Academy for the first time, must be screened for possible vision and hearing problems within 120 calendar days of enrollment. If the student is enrolled within 60 days of the date school closes for the summer, the student must be tested within 120 days of the beginning of the following school year. Students enrolled who turn thirteen years of age after September 1 of that year are exempt from screening until the following September. *25 TAC 37.25(a)(1), (5)*.

c) *Screening Procedures: Photo Screening and Electronic Eye Chart*

Students who must be screened for purposes of enrollment and admission to public school must be screened using photo screening to detect vision disorders and using an electronic eye chart as a substitute for a printed eye chart to assess visual acuity. *Health and Safety Code 36.004(b-1)*.

Electronic eye chart means any computerized or other electronic system, device, or method of displaying on an electronic screen medically accepted and properly sized optotypes, which may be letters, numbers, or symbols, a health care practitioner or other person uses to assess an individual's visual acuity. The term does not include an automated computer program that assesses an individual's visual acuity through the individual's interaction with the program by playing a game. *Health and Safety Code 36.003(1-a).*

d) ***Outside Screening***

Except for students enrolled in prekindergarten, kindergarten, or first grade, Richard Milburn Academy shall exempt a student from screening if the student's parent, managing conservator, or legal guardian, or the student under scenarios described at Family Code 32.003 submits a record showing that a professional examination was properly conducted during the grade year in question or during the previous year. The record must be submitted during the grade year for which the screening would otherwise be required. *25 TAC 37.25(a)(4)*.

e) ***Provisional Admission***

A parent, managing conservator, or legal guardian, or the student under scenarios described at Family Code 32.003 may execute an affidavit stating that a person, other than the screener used by Richard Milburn Academy, shall conduct the screening (or that a licensed professional shall conduct an examination) as soon as is feasible. Richard Milburn Academy may admit the student on a provisional basis for up to 60 days, or may deny admission until the screening record(s) are provided to Richard Milburn Academy. *25 TAC 37.25(b)*

f) ***Exemption – Religious Beliefs***

A student is exempt from screening if it conflicts with the tenets and practices of a recognized church or religious denomination of which the student is an adherent or a member. To qualify for the exemption, the student or minor student's parent, managing conservator, or guardian must submit on or before the day of admission an affidavit stating the objections to screening. *Health and Safety Code 36.005(b)*; *25 TAC 37.25(c)*.

g) ***Records***

The Superintendent shall maintain on a form prescribed by the TDSHS in accordance with TDSHS rules, screening records for each student in attendance, and the records are open for inspection by the TDSHS or the local health department. *Health and Safety Code 36.006*; *25 TAC 37.26*.

A student's screening records may be transferred among districts without the consent of the student or minor student's parent, managing conservator, or guardian. *Health and Safety Code 36.006(c)*; *25 TAC 37.26(b)(4)*.

h) ***Annual Report***

On or before June 30 of each year, Richard Milburn Academy shall submit to the TDSHS a report on the vision and hearing screening status of its aggregate population screened during the reporting year. Richard Milburn Academy shall report in the manner specified by the TDSHS. *Health and Safety Code 36.006(d)*; *25 TAC 37.26(b)(6)*.

Sec. 3. SCREENINGS: RISK ASSESSMENT FOR TYPE 2 DIABETES

As soon as possible after admission and as required by rule, each student required to be assessed shall undergo approved risk assessment for type 2 diabetes. The risk assessment should:

1. Identify students with acanthosis nigricans; and
2. Further assess students identified under paragraph 1 to determine the students':
   a. Body mass index; and
   b. Blood pressure.

The risk assessment shall be performed at the same time hearing and vision screening or spinal screening is performed.

Health and Safety Code 95.002(d), .003(a).

a) ***Superintendent's Responsibility***

The Superintendent shall ensure that each student admitted to Richard Milburn Academy complies with the risk assessment requirements or submits an affidavit of exemption. *Health and Safety Code 95.003(c)*.

b) ***Applicability***

Students who attend public schools located in the TEA Regional Education Service Centers 1, 2, 3, 4, 10, 11, 13, 15, 18, 19, and 20 shall be subject to risk assessment. *Health and Safety Code 95.002(b)*.

c) ***Outside Screening***

The student or minor student's parent, managing conservator, or guardian may substitute a

professional examination for the risk assessment.

d) ***Exemption – Religious Beliefs***

A student is exempt from risk assessment if it conflicts with the tenets and practices of a recognized church or religious denomination of which the student is an adherent or a member. To qualify for the exemption, the student or minor student's parent, managing conservator, or guardian must submit to the Superintendent on or before the day of the risk assessment process, an affidavit stating the objections to the risk assessment. *Health and Safety Code 95.003(b)*.

e) ***Records***

The Superintendent shall maintain the risk assessment records for each student in attendance and enter the risk assessment information for each student on the surveillance software selected by the University of Texas—Pan American Border Health Office (the Office). The risk assessment records are open for inspection by the Office or the local health department. *Health and Safety Code 95.004(a)*.

A student's risk assessment records may be transferred among schools without the consent of the student or, if the student is a minor, the student's parent, managing conservator, or guardian. *Health and Safety Code 95.004(c)*.

f) ***Annual Report***

Richard Milburn Academy shall submit to the Office an annual report on the risk assessment status of the students in attendance during the reporting year and shall include in the report any other required information. *Health and Safety Code 95.004(e)*.

Sec. 4. SCREENINGS: SPINAL SCREENING

Each student required by the TDSHS rule to be screened shall undergo approved screening for abnormal spinal curvature. *Health and Safety Code 37.002(a)*.

a) Superintendent's Responsibility

The Superintendent shall ensure that each student admitted to Richard Milburn Academy complies with the screening requirements or submits an affidavit of exemption. *Health and Safety Code 37.002(c), 25 TAC 37.144(b)*.

The Superintendent is also responsible for notifying a parent, guardian, or managing conservator of the requirement to conduct spinal screenings, the purpose and reasons for spinal screenings, the potential risk to the child if declined, the method used to perform a spinal screening, and the method to decline a spinal screening based on a religious belief exemption. *25 TAC 37.144(a)*.

b) ***Screening Schedule: Routine Screening***

Students who meet the criteria outlined in TDSHS policy shall be screened for abnormal spinal curvature before the end of the school year. *25 TAC 37.144(c)(1)*.

c) ***Screening Schedule: Screening at Enrollment***

If a student is enrolled within 60 days of the date Richard Milburn Academy closes for the summer, the student's screening must be conducted within 120 days of the beginning of the following school year. Richard Milburn Academy may offer a student the opportunity for a spinal screening if the student has no record of having been screened previously. *25 TAC 37.144(c)(2), (3).*

d) ***Outside Screening***

The screening requirements may also be met by a professional examination as defined in 25 TAC 37.142(7). *25 TAC 37.144(c)(1)*.

e) ***Provisional Admission***

A parent, managing conservator, or legal guardian, or the student under Family Code 32.003 may execute an affidavit stating that a person, other than the screener used by Richard Milburn Academy, shall conduct the screening as soon as is feasible. Richard Milburn Academy may admit the student on a provisional basis for up to 60 days, or may deny admission until the screening records are provided to Richard Milburn Academy. The 60-day time period is from November 30 to January 30 of each school year. *25 TAC 37.144(d)*.

f) ***Exemption – Religious Beliefs***

A student is exempt from screening if it conflicts with the tenets and practices of a recognized church or religious denomination of which the student is an adherent or member. To qualify for the exemption, the student's parent, managing conservator, or guardian must submit to the Superintendent on or before the day of the screening procedure an affidavit stating the objections to screening. *Health and Safety Code 37.002(b); 25 TAC 37.144(e)*.

g) ***Records***

Richard Milburn Academy must comply with recordkeeping and reporting requirements set out in 25 TAC 37.145(b).

h) ***Transfer of Records***

Spinal screening records are transferrable between schools without the consent of the individual or, if the individual is a minor, the minor's parent, managing conservator, or legal guardian. *25 TAC 37.145(b)(3)*.

i) ***Annual Report***

On or before June 30 of each year, Richard Milburn Academy shall submit to the TDSHS a complete and accurate annual report on the spinal screening status of its aggregate population

screened during the reporting year. Richard Milburn Academy shall report in the manner specified by the TDSHS (currently found at http://chrstx.dshs.state.tx.us. *25 TAC 37.145(b)(5)*.

Sec. 5. UNIVERSITY INTERSCHOLASTIC LEAGUE ("UIL") PARTICIPATION

A student desiring to participate in the UIL athletic program shall submit to Richard Milburn Academy a statement from a health care provider authorized under UIL rules indicating that the student has been examined and is physically able to participate in the athletic program. This examination is required for the first year of middle school competition and grades 9 and 11 of high school competition. In other years, the student shall complete a medical appraisal form. A student may be required to have a physical examination based on answers to the appraisal form.

Sec. 6. REFERRALS

Parents of students identified through screening programs as needing treatment or further examination shall be referred to health agencies as appropriate.

Sec. 7. ADDITIONAL POLICIES

As a condition of receiving funds under a program funded in whole or in part by the U.S. Department of Education (DOE), Richard Milburn Academy shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), regarding the administration of physical examinations or screenings that Richard Milburn Academy may administer to the student. Richard Milburn Academy shall provide notice of the policies at least annually, at the beginning of the school year and within a reasonable time after any substantive change in the policies.

At least annually at the beginning of the school year, Richard Milburn Academy shall directly notify the parent of a student of the specific or approximate dates during the school year when any nonemergency, invasive physical examination or screening, described below, is scheduled or expected to be scheduled. The required notification applies to nonemergency, invasive physical examinations or screenings that are:

1. Required as a condition of attendance;
2. Administered and scheduled by Richard Milburn Academy in advance; and
3. Not necessary to protect the immediate health and safety of the student or of other students.

At a minimum, Richard Milburn Academy shall offer an opportunity for the parent to opt the student out of participation in the examination or screening.

These provisions do not apply to any physical examination or screening that is permitted or required by an applicable state law, including physical examinations or screenings that are permitted without parental notification.

20 U.S.C. 1232h.

PG-3.311 FETANYL POISONING AWARENESS

Sec. 1. FENTANYL POISOINING AWARENESS

The Governor will designate a week to be known as Fentanyl Poisoning Awareness Week in public schools to education students about the dangers posed by the drug fentanyl and the risks of fentanyl poisoning, including overdose. *Education Code 29.9074*.

Sec. 2. FENTANYL ABUSE PREVENTION AND DRUG POISONING AWARENESS EDUCATION

Richard Milburn Academy shall annually provide researched-based instruction related to fentanyl abuse prevention and drug poisoning awareness to students in grades 9 through 12. This instruction must include:

1. Suicide prevention;
2. Prevention of the abuse of and addiction to fentanyl;
3. Awareness of local school and community resources and any processes involved in accessing those resources; and
4. Health education that includes information about substance use and abuse, including youth substance use and abuse.

The instruction required under this section may be provided by an entity or an employee or agent of an entity that is:

1. A public or private institution of higher education;
2. A library;
3. A community service organization;
4. A religious organization;
5. A local public health agency; or
6. An organization employing mental health professionals.

Education Code 38.040(a)-(c).

PG.3.312 SCHOOL SAFETY TRANSFERS

Sec. 1. TRANSFERS FOR SCHOOL SAFETY PURPOSES

A parent of a student who becomes a victim of a violent criminal offense, as defined below, or who is assigned to a campus assigned by the Texas Education Agency ("TEA") as persistently dangerous shall be offered an opportunity to transfer to a safe public or charter school within Richard Milburn Academy. *Every Student Succeeds Act (ESSA) Section 8532, TEA Unsafe School Choice Option Guidance Handbook*.

For each school safety transfer request, Richard Milburn Academy shall explore appropriate transfer options. These options may include a transfer agreement with or enrollment in a neighboring school district or, if Richard Milburn Academy operates more than one campus, a transfer to another Richard Milburn Academy campus or school that serves the appropriate grade level. *TEA Unsafe School Choice Option Guidance Handbook.*

a) Transfers for Victims of Violent Criminal Offenses

For purposes of this policy, a student is considered to be a victim of a violent criminal offense if the student is a victim of one of the following Penal Code offenses while on the premises of a school or while attending a school-sponsored or school-related activity on or off school property:

a. Aggravated assault on someone other than a district employee or volunteer;
b. Aggravated kidnapping;
c. Aggravated robbery;
d. Attempted murder;
e. Continuous sexual abuse of young child or children occurring on school property or while attending a school-sponsored or school-related activity on or off school property;
f. Indecency with a child; or
g. Sexual assault or aggravated sexual assault against someone other than a district employee or volunteer.

Within 14 calendar days after a violent criminal offense occurs in or on the grounds of the school the student attends, Richard Milburn Academy will notify the parent of the student victim of the parent's right to request a transfer. The parent must then submit a written application for transfer to the Superintendent or designee. The Superintendent or designee will approve or disapprove the request within 14 calendar days after receipt.

A transfer arranged for any student who is the victim of a violent criminal offense will be renewed for as long as the threat to the student exists at the campus from which the student transferred.

For each violent criminal offense, Richard Milburn Academy shall maintain, for at least five years, documentation reflecting the date and nature of the offense, notice provided to the parent concerning the transfer option, any submitted transfer application, action taken in response to a transfer application, and other relevant information concerning the offense.

b) Transfers from a Persistently Dangerous School

A parent of a student attending a school identified by TEA as persistently dangerous shall be notified of the parent's right to request a transfer. Such notice shall be provided at least 14 calendar days prior to the start of the school year or, if a student enrolls after the school year begins, upon the student's enrollment.

In order to request a transfer for safety reasons, a parent must submit a written transfer application to the Superintendent or designee. The Superintendent or designee will complete the transfer prior to the start of the school year or, if applicable, within 14 calendar days of the request for a student who enrolls after the school year begins.

A transfer arrangement for a student from a campus identified by the TEA as persistently dangerous will be renewed so long as the campus from which the student transferred remains identified by the TEA as persistently dangerous.

Richard Milburn Academy shall maintain, in accordance with its adopted record retention schedule and/or the state's record retention schedule for school records, documentation of

notice to parents of the transfer options, transfer applications submitted, and actions taken in response to transfer applications.

Please see the Texas Education Agency's *Unsafe School Choice Option Guidance Handbook, Every Student Succeeds Act*, version 4.1 (10/2024) for additional information.

PG-3.313 PROHIBITED ORGANIZATIONS AND HAZING

Gang-related behavior and hazing are prohibited by Richard Milburn Academy.

The Principal or designee shall document and update as needed known or suspected gang-related apparel, gang hand signals, gang signatures, mottoes, graffiti, or persistent gang involvement and activity. The Student Handbook shall include notice to parents and students in this regard.

PG-3.314 SUICIDE PREVENTION, INTERVENTION, AND POSTVENTION

SEC. 1. PURPOSE

Richard Milburn Academy recognizes that physical, mental, behavioral, and emotional health are each important components of a student's educational outcomes. The purpose of this policy is to protect the health and well-being of all students by establishing procedures to assess the risk of, prevent, intervene in, and respond to suicide.

This policy is intended to be paired with other policies supporting the mental, behavioral, and emotional health of students, including but not limited to Policy PG-1.404 (Crisis and Trauma Response).. As part of that intention, this policy is meant to be applied in accordance with Richard Milburn Academy's Child Find obligations under federal law.

SEC. 2. SCOPE

This policy applies to actions that take place on school property during the school day, at school-sponsored events, and on school buses or vehicles. This policy applies to the entire school community, including educators, staff, students, parents/guardians, and volunteers. This policy will also cover appropriate school responses to suicidal or high-risk behaviors that take place outside of the school environment of which school personnel become aware.

SEC. 3. DEFINITIONS

a) At risk

A student who is defined as high risk for suicide is one who has made a suicide attempt, has the intent to die by suicide, or has displayed a significant change in behavior suggesting the onset or deterioration of a mental health condition. The student may have thought about suicide, including potential means of death and may have a plan. In addition, the student may exhibit feelings of isolation, hopelessness, helplessness, and the inability to tolerate any more pain. This situation would necessitate a referral in accordance with this policy.

b) Crisis team

A multidisciplinary team of primarily administrative, mental health, safety professionals, and support staff whose primary focus is to address crisis preparedness, intervention/response, and recovery. These professionals have been

specifically trained in crisis preparedness through recovery and take the leadership role in developing crisis plans, ensuring school staff can effectively execute various crisis protocols, and may provide mental health services for effective crisis interventions and recovery supports.

Richard Milburn Academy may designate the threat assessment and safe and supportive school team established under of Education Code 37.115 as the crisis team for purposes of this policy.

c) Mental health

A state of mental and emotional being that can impact choices and actions that affect wellness. Mental health problems include mental and substance use disorders.

d) Postvention

A crisis intervention strategy implemented after a suicide death in the school community designed to reduce the risk of suicide and suicide contagion, provide the support needed to help survivors cope, address the social stigma associated with suicide, and disseminate factual information.

e) Risk assessment

An evaluation of a student who may be at risk for suicide, conducted by the appropriate school staff (e.g., school psychologist, school counselor, or school social worker). This assessment is designed to elicit information regarding the student's intent to die by suicide, previous history of suicide attempts, presence of a suicide plan and its level of lethality and availability, presence of support systems, and level of hopelessness and helplessness, mental status, and other relevant risk factors.

f) Warning signs or risk factors for suicide

Characteristics or conditions that increase the chance that a person may try to take his or her life. Suicide risk tends to be highest when someone has several risk factors at the same time. Risk factors may encompass biological, psychological, and or social factors in the individual, family, and environment. Warning signs may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others.

g) Self-harm

Behavior that is self-directed and deliberately results in injury or the potential for injury to oneself. It can be categorized as either non-suicidal or suicidal. Although self-harm often lacks suicidal intent, youth who engage in self-harm are more likely to attempt suicide.

h) Suicide

Death caused by self-directed injurious behavior with any intent to die as a result of the behavior. Note: The coroner's or medical examiner's office must first confirm that the death was a suicide before any school official may state this as the cause of death.

i) Suicide attempt

A self-injurious behavior for which there is evidence that the person had at least some intent to kill himself or herself. A suicide attempt may result in death, injuries, or no injuries. A mixture of ambivalent feelings such as wish to die and desire to live is a common experience with most suicide attempts. Therefore, ambivalence is not a sign of a less serious or less dangerous

suicide attempt.

j) ***Suicidal behavior***

Suicide attempts, intentional injury to self-associated with at least some level of intent, developing a plan or strategy for suicide, gathering the means for a suicide plan, or any other overt action or thought indicating intent to end one's life.

k) ***Suicide contagion***

The process by which suicidal behavior or a suicide influences an increase in the suicidal behaviors of others. Guilt, identification, and modeling are each thought to play a role in contagion. Although rare, suicide contagion can result in a cluster of suicides.

l) ***Suicidal ideation***

Thinking about, considering, or planning for self-injurious behavior which may result in death. A desire to be dead without a plan or intent to end one's life is still considered suicidal ideation and should be taken seriously.

SEC. 4. STAFF TRAINING

In accordance with 19 TAC 153.1013, Richard Milburn Academy provides suicide prevention training to educators as required by Education Code 21.451(d).

SEC. 5. PREVENTION

a) Policy Implementation

The Superintendent shall designate a district-wide suicide prevention coordinator. The suicide prevention coordinator will be responsible for planning and coordinating Richard Milburn Academy's implementation of this policy.

Each school Principal shall designate a campus-level suicide prevention coordinator to act as a point of contact in each school for issues relating to suicide prevention and policy implementation. All staff members shall report students they believe to be at elevated risk for suicide to the school suicide prevention coordinator.

Each campus-level suicide prevention coordinator shall assemble a crisis team for their school in accordance with definition provided above.

b) ***Staff Professional Development***

Richard Milburn Academy will provide suicide prevention training using an approved best practice-based program in accordance with 19 TAC 153.1013, which incorporates sections 21.451(d) and 38.151(e) of the Education Code.

c) ***Youth Suicide Prevention Education***

Developmentally-appropriate, student-centered education materials will be integrated into the curriculum of all Richard Milburn Academy health classes. The content of these age-appropriate materials will include: 1) the importance of safe and healthy choices and coping strategies, 2) how to recognize risk factors and warning signs of mental disorders and suicide in oneself and others, and 3) help-seeking strategies for oneself or others, including how to engage school resources and refer friends for help. Richard Milburn Academy may also provide supplemental small-group suicide prevention programming for students.

d) Publication and Distribution

Notice of this policy will be distributed annually and included in all student and employee handbooks. The policy will be available online on the Richard Milburn Academy website. A copy of this policy will also be available in campus and district administrative offices.

SEC. 6. INTERVENTION

a) Assessment and Referral

When a student is identified by a Richard Milburn Academy staff member, peer, or other source as potentially suicidal, e.g., verbalizes about suicide, presents overt risk factors such as agitation or intoxication, an act of self-harm occurs, or expresses or otherwise shows signs of suicidal ideation, the student shall be seen by a school-employed mental health professional, such as a school psychologist, school counselor, school social worker, within the same school day to assess risk and facilitate referral if necessary. Richard Milburn Academy staff shall also be aware of written threats and expressions about suicide and death in school assignments. Such incidences require immediate referral to the appropriate school-employed mental health professional.

If there is no mental health professional available, a designated staff member (e.g., school nurse or administrator) shall address the situation according to Richard Milburn Academy protocol until a mental health professional is brought in.

b) **At-Risk Students**

Richard Milburn Academy staff shall continuously supervise the student to ensure their safety until the assessment process is complete. The campus principal and school suicide prevention coordinator shall be made aware of the situation as soon as reasonably possible

The school-employed mental health professional or principal shall contact the student's parent or guardian, as described in the Parental Notification Involvement section and in compliance with existing state law/district policy (if applicable), and shall assist the family with urgent referral

Urgent referral may include, but is not limited to, working with the parent or guardian to set up an outpatient mental health or primary care appointment and conveying the reason for referral to the healthcare provider; in some instances, particularly life-threatening situations, the school may be required to contact emergency services, or arrange for the student to be transported to the local Emergency Department, preferably by a parent or guardian

If parental abuse or neglect is suspected or reported, the appropriate state protection officials (e.g., local Child Protection Services) shall be contacted in lieu of parents as per law.

Staff will ask the student's parent or guardian, and/or eligible student, for written permission to discuss the student's health with outside care providers, if appropriate

If the parent(s) or guardian(s) are unwilling or unable to transport the student for immediate evaluation, the Counselor or Principal shall contact local emergency services as appropriate and consider the need for a CPS referral.

c) Law Enforcement Involvement

When a student is actively suicidal and the immediate safety of the student or others is at-risk (such as when a weapon is in the possession of the student), Richard Milburn Academy staff shall call 911 immediately. The staff calling shall provide as much information about the situation as possible, including the name of the student, any weapons the student may have, and where the student is located. School staff may tell the dispatcher that the student

is a suicidal emotionally disturbed person, or "suicidal EDP", to allow for the dispatcher to send officers with specific training in crisis de-escalation and mental illness.

SEC. 7. PARENTAL NOTIFICATION AND INVOLVEMENT

The campus principal, designee, or school mental health professional shall notify the student's parent or guardian on the same school day, or as soon as possible, any time a student is identified as having any level of risk for suicide or the student has made a suicide attempt.

a) Counseling Alternatives

Following parental notification and based on initial risk assessment, the principal, designee, or school mental health professional may offer recommendations for next steps based on perceived student need. These can include but are not limited to, an additional, external mental health evaluation conducted by a qualified health professional or emergency service provider.

Richard Milburn Academy will provide a list of mental health facilities, local counselors, and other resources for parents to consider when their child is identified as possibly in need of early mental health intervention and/or suicide prevention. These resources are not in any way connected to Richard Milburn Academy nor are they necessarily recommended above other resources the parent(s) or guardian(s) may find on their own; the parent or guardian is free to select providers of their choice.

b) Means Counseling

When a student indicates suicidal intent, the campus principal, designee, or school mental health professional shall attempt to discuss safety at home, or "means safety" with the parent or guardian. This includes limiting the student's access to mechanisms for carrying out a suicide attempt (*e.g.*, guns, knives, pills, etc.) and may also include safety planning. It is imperative to ask parents whether or not the student has access to a firearms, medication, or other lethal means.

Richard Milburn Academy staff will seek parental permission, in the form of a Release of Information form, to communicate with outside mental health care providers regarding the student's safety plan and access to lethal means.

i. *Firearms*

The Richard Milburn Academy staff member engaging in means counseling with the parent or guardian will:

1. Inquire of the parent or guardian if firearms are kept in the home or are otherwise accessible to the student.
2. Recommend that parents store all guns away from home while the student is struggling, *e.g.*, following state laws, store their guns with a relative, gun shop, or police.
3. Discuss parent or guardian concerns and help problem-solve around offsite storage, including notice to parent or guardian that offsite storage is an effective, immediate way to protect the student.
4. Explain that in-home locking is not as safe as offsite storage, as children and adolescents sometimes find the keys or get past the locks.

If there are no guns at home, Richard Milburn Academy staff member will also ask about guns in other residences (*e.g.*, joint custody situation, access to guns in the homes of friends or other family members)

If the parent or guardian is unwilling or unable to store firearms offsite, the Richard Milburn Academy staff member will inform the parent or guardian that the next safest option is to unload guns, lock them in a gun safe, and lock ammunition separately (or do not ammunition at home). If guns are already locked, the Richard Milburn Academy staff member will ask parents to consider changing the combination or key location in case the student is aware of the combination or location.

ii. *Medications*

The Richard Milburn Academy staff member engaging in means counseling with the parent or guardian will:

1. Recommend the parent or guardian lock up all medications (except rescue meds like inhalers), either with a traditional lock box or a daily pill dispenser.
2. Recommend disposing of expired and unneeded medications, especially prescription pain pills.
3. Recommend parent or guardian maintain possession of the student's medication, only dispensing one dose at a time under supervision

If the parent or guardian is unwilling or unable lock medication away from student access, the Richard Milburn Academy staff member will advise they prioritize and seek specific guidance from a doctor or pharmacist regarding: (1) prescriptions, especially for pain, anxiety or insomnia; (2) over-the-counter pain pills; and (3) over-the-counter sleeping pills.

SEC. 8. IN SCHOOL SUICIDE ATTEMPTS

In the case of an in-school suicide attempt, the health and safety of the student is paramount. In these situations:

1. First aid will be rendered until professional medical treatment and/or transportation can be received, following district emergency medical procedures.
2. Richard Milburn Academy staff will supervise the student to ensure his or her safety.
3. Staff will move all other students out of the immediate area as soon as possible.
4. If appropriate, staff will immediately request a mental health assessment for the youth.
5. Staff will immediately notify the campus principal or school suicide prevention coordinator regarding in-school suicide attempts.
6. The principal, designee, or school mental health professional will contact the student's parent or guardian, as described in the Parental Notification and Involvement section.
7. Richard Milburn Academy will engage as necessary the crisis team to assess whether additional steps should be taken to ensure student safety and well-being.

SEC. 9. OUT-OF-SCHOOL SUICIDE ATTEMPTS

If a Richard Milburn Academy staff member becomes aware of a suicide attempt by a student that is in progress in an out-of-school location, the staff member will:

1. Call the police and/or emergency medical services, such as 911.
2. Inform the student's parent or guardian.
3. Inform the campus suicide prevention coordinator and Principal.

If the student contacts the staff member and expresses suicidal ideation, the staff member should maintain contact with the student (either in person, online, or on the phone). The staff member should then enlist the assistance of another person to contact the police while maintaining verbal engagement with the student.

SEC. 10. RE-ENTRY PROCEDURE

For students returning to school after a mental health crisis (*e.g.*, suicide attempt or psychiatric hospitalization), the campus principal, designee, or school mental health professional will meet with the student's parent or guardian, and if appropriate, meet with the student to discuss re-entry.

The meeting shall address next steps needed to ensure the student's readiness for return to school, plan for the first day back, and ease the transition back into the school environment (*e.g.*, whether or not the student will be required to make up missed work, the nature of check-in/check-out visits, etc.). Any necessary accommodations shall also be discussed and documented.

Following a student hospitalization, parents may be encouraged to inform the school mental health professional of the student's hospitalization to ensure continuity of service provision and increase the likelihood of a successful re-entry. While not a requirement for re-entry, Richard Milburn Academy may coordinate with the hospital and any external mental health providers to assess the student for readiness to return to school.

A school mental health professional or other designee shall be identified to coordinate with the student, their parent or guardian, and any outside health care providers. The mental health professional shall meet with the student and their parents or guardians to discuss and document a re-entry procedure

The designated staff person shall periodically check-in with the student to help with readjustment to the school community and address any ongoing concerns, including social or academic concerns.

The school mental health professional shall check-in with the student and the student's parents or guardians at an agreed upon interval depending on the student's needs either on the phone or in person for a mutually agreed upon time period (*e.g.*, for a period of three months). These efforts are encouraged to ensure the student and their parents or guardians are supported in the transition, with more frequent check-ins initially, and then fading support.

The administration shall disclose to the student's teachers and other relevant staff (without sharing specific details of mental health diagnoses) that the student is returning after a medically-related absence and may need adjusted deadlines for assignments. The school mental health professional shall be available to teachers to discuss any concerns they may have regarding the student after re-entry.

SEC. 11. POSTEVENTION

a) Development and Implementation of an Action Plan

The crisis team will develop an action plan to guide school response following a death by suicide. A meeting of the crisis team to implement the action plan should take place immediately following news of the suicide death. The action plan may include the following steps:

1. **Gather facts.** The crisis response coordinator or other designated school official (*e.g.*, the campus principal or superintendent) will confirm the death and determine the cause of death through communication with the student's parent or guardian, the coroner's office, local hospital, or police department. Before the death is officially classified as a suicide by the coroner's office, the death shall be reported to staff, students, and parents or guardians, with an acknowledgement that its cause is unknown. When a case is perceived as being an obvious instance of suicide, it shall not be labeled as such until after a cause of death ruling has been made. If the cause of death has been confirmed as suicide but the parent or guardian prefers the cause of death not be disclosed, the school may release a general statement without disclosing the student's name (*e.g.*, "We had a ninth-grade student die over the weekend"). If the parents do not want to disclose cause of death, an administrator or mental health professional from the school who has a good relationship with the family shall be designated to speak with the parents to explain the benefits of sharing mental health resources and suicide prevention with students. If the family refuses to permit disclosure, schools may state "The family has requested that information about the cause of death not be shared at this time." Staff may also use the opportunity to talk with students about suicide.

2. **Assess the situation.** The crisis team shall meet to prepare the postvention response according to the crisis response plan. The team shall consider how the death is likely to affect other students, and determine which students are most likely to be affected. The crisis response team shall also consider how recently other traumatic events have occurred within the school community and the time of year of the

suicide. The team and principal shall triage staff first, and all teachers directly involved with the victim shall be notified in-person and offered the opportunity for support.

3. **Share information.** The designated staff person shall inform the other staff that a sudden death has occurred, preferably in an all-staff meeting. The crisis team shall provide a written statement for staff members to share with students and assess staff's readiness to provide this message in the event a designee is needed. The statement shall include the basic facts of the death and known funeral arrangements (without providing details of the suicide method), recognition of the sorrow the news will cause, and information about the resources available to help students cope with their grief.

   Staff shall respond to questions only with factual information that has been confirmed. Staff shall dispel rumors with facts, be flexible with academic demands, encourage conversations about suicide and mental health, normalize a wide range of emotional reactions, and know the referral process and how to get help for a student. Staff will avoid public address system announcements and school-wide assemblies in favor of face-to-face notifications, including small-group and classroom discussions. The crisis response team may prepare a letter (with the input and permission from the student's parent or guardian) to communicate with parents which includes facts about the death, information about what the school is doing to support students, the warning signs of suicidal behavior, and a list of resources available. If necessary, a parent meeting may also be planned. Staff shall direct all media inquiries to the designated school or district spokesperson.

4. **Avoid suicide contagion.** Richard Milburn Academy will actively triage particular risk factors for contagion, including emotional proximity (*e.g.*, siblings, friends, or teammates), physical proximity (witness, neighbor) and pre-existing mental health issues or trauma. The designated staff person shall explain in an all-staff meeting that one purpose of trying to identify and provide services to other high-risk students is to prevent another death. The crisis team shall work with teachers to identify students who are most likely to be significantly affected by the death, or who exhibit behavioral changes indicating increased risk. In the staff meeting, the crisis team shall review suicide warning signs and procedures for referring students who present with increased risk. For those school personnel who are concerned that talking about suicide may contribute to contagion, it has been clearly demonstrated through research that talking about mental health and suicide in a nonjudgmental, open way that encourages dialogue and help-seeking does not elevate risk.

5. **Initiate support services.** Students identified as being more likely to be affected by the death will be assessed by a school mental health professional to determine the level of support needed. The crisis team shall coordinate support services for students and staff in need of individual and small group counseling as needed.

   School mental health professionals will provide on-going and long term support to students impacted by the death of the student, as needed. If long term intensive services by a community provider are warranted, the school mental health professional will collaborate with that provider and the family to ensure continuity of care between the school, home, and community. Together with parents or guardians, crisis team members shall provide information for partner community mental health providers, or providers with appropriate expertise, to ensure a smooth transition from the crisis intervention phase to meeting underlying or ongoing mental health needs. These discussions may include debriefing (orientation to the facts), reflection on memories, reminders for and re-teaching of coping skills, and encouraging spending time with friends and caregivers as soon as possible. Students and staff affected by the suicide death shall be encouraged to return to a normal routine as much as possible, understanding that some deviation from routine is to be expected.

6. **Develop memorial plans.** Richard Milburn Academy will not create or permit on-campus physical memorials (*e.g*, photos, flowers, locker displays), funeral services, or fly the flag at half-mast because it may sensationalize the death and encourage suicide contagion. School should not be canceled for the funeral. Spontaneous memorials may occur from students expressing their grief.

   School shall not be canceled for the funeral or for reasons related to the death. Any school-based memorials (e.g., small gatherings) shall include a focus on how to prevent future suicides and prevention resources available. Any school-based memorials (*e.g.*, small gatherings) will include a focus on how to prevent future suicides and

prevention resources available.

b) ***External Communication***

The Richard Milburn Academy-appointed spokesperson will be the sole media spokesperson. Staff will refer all inquiries from the media directly to the spokesperson. The spokesperson will:

1. Keep the district suicide prevention coordinator and Superintendent informed of school actions relating to the death.

2. Prepare a statement for the media including the facts of the death, postvention plans, and available resources. The statement will not include confidential information, speculation about victim motivation, means of suicide, or personal family information.

3. Answer all media inquiries. If a suicide is to be reported by news media, the spokesperson should encourage reporters not to make it a front-page story, not to use pictures of the suicide victim, not to use the word suicide in the caption of the story, not to describe the method of suicide, and not to use the phrase "suicide epidemic" – as this may elevate the risk of suicide contagion. They should also be encouraged not to link bullying to suicide and not to speculate about the reason for suicide. Media should be asked to offer the community information on suicide risk factors, warning signs, and resources available.

PG-3.315 INTERROGATIONS AND SEARCHES

Sec. 1. SEARCHES OF STUDENTS

In the interest of promoting student safety and attempting to ensure that Richard Milburn Academy is safe and drug free, school officials may, from time to time, conduct searches. Such searches are conducted without a warrant and as permitted by law.

Administrators, teachers and other professional personnel may question a student regarding the student's own conduct or the conduct of other students. In the context of school discipline, students have no claim to the right not to incriminate themselves.

Students shall be free from unreasonable searches and seizures by Richard Milburn Academy officials. Richard Milburn Academy officials may search a student's outer clothing, pockets, or property by establishing reasonable cause or securing the student's voluntary consent.

A search is reasonable if it meets both of the following criteria:

1. The action is justified at the inception; i.e., the school official has reasonable grounds for suspecting that the search will uncover evidence of a rule violation or a criminal violation.
2. The scope of the search is reasonably related to the circumstances that justified the search in the first place such as the extent of the search, the objectives of the search, the age and sex of the student, and the nature of the infraction.

Sec. 2. INTERROGATIONS

a) ***By School Officials***

Administrators, teachers, and other professional personnel may question a student regarding the student's own conduct or the conduct of other students. In the context of school discipline, students have no claim to the right not to incriminate themselves.

b) ***By Police or Other Authorities***

When a representative of the Department of Family and Protective Services or another lawful authority requests to question or interview a student at school as part of a child abuse investigation, the Principal or designee shall cooperate fully with the official's requests regarding the conditions of the interview or questioning.

When law enforcement officers or other lawful authorities request to question or interview a student at school for any purpose other than a child abuse investigation, the following guidelines shall apply:

1. The Principal or designee shall verify and record the identity of the officer or other authority and request an explanation of the need to question or interview the student at school.
2. The Principal or designee ordinarily shall make reasonable efforts to notify the student's parent or other person having lawful control of the student. If the interviewer raises what the Principal or designee considers to be a valid objection to the notification, the parent or other person having lawful control of the student shall not be notified.
3. The Principal or a designee ordinarily shall be present during the questioning or interview. If the interviewer raises what the Principal or designee considers to be a valid objection to a third party's presence, the interview shall be conducted without that person's presence.

Before a student at school is arrested or taken into custody by a law enforcement officer or other legally authorized person, the Principal or designee shall verify the official's identity. To the best of his or her ability, the Principal or designee shall verify the official's authority to take custody of the student and then shall deliver over the student.

The Principal or designee shall immediately notify the Superintendent and ordinarily shall notify the parent or other person having lawful control of the student. If the officer or other authorized person raises what the Principal or designee considers to be a valid objection to notifying the parent or other person having lawful control of the student at that time, the Principal or designee shall not notify the parent or other person having lawful control of the student.

Sec. 3. DESKS AND LOCKERS

Desks, lockers, and similar items are the property of Richard Milburn Academy and are provided for student use as a matter of convenience. Richard Milburn Academy will make periodic inspections of lockers and desks at any time, with or without notice or student consent Richard Milburn Academy officials will remove any item that violates Richard Milburn

Academy policy or that may potentially be dangerous.

Students have full responsibility for the security of their lockers and desks, and shall be held responsible for any prohibited items found during a search. The student's parent shall be notified if any prohibited articles or materials are found in a student's desk or locker, or on the student's person, as a result of a search conducted in accordance with this policy.

Sec. 4. VEHICLES

Vehicles parked on Richard Milburn Academy property and property under Richard Milburn Academy's control are under the jurisdiction of Richard Milburn Academy and may be searched at any time if reasonable suspicion exists to believe that the search will result in evidence that school rules or other laws have been violated. If a vehicle subject to search is locked, the student shall be asked to unlock the vehicle and consent to a search of the vehicle. If the student refuses to permit the vehicle to be searched, Richard Milburn Academy may contact the student's parents, and/or law enforcement officials.

A student may be held responsible for and in possession of prohibited items found in his or her vehicle parked on Richard Milburn Academy's property or at a school-related event.

Sec. 5. USE OF TRAINED DOGS

Richard Milburn Academy may use or contract for specially trained nonaggressive dogs to sniff out and alert Richard Milburn Academy officials to the presence of concealed, prohibited or illegal items, including drugs and alcohol. Such visits to Richard Milburn Academy may be unannounced. The dogs shall be used to sniff vacant classrooms, vacant common areas, the areas around student lockers, and the areas around vehicles parked on Richard Milburn Academy property. The dogs shall not be asked to alert on students. If a dog alerts to a locker, a vehicle, or an item in a classroom, it may be searched by Richard Milburn Academy officials.

Sec. 6. PARENT NOTIFICATION

The student's parent or guardian shall be notified if any prohibited articles or materials are found in a student's locker, in a student's vehicle parked on school property, or on the student's person, as a result of a search conducted in accordance with this policy.

PG-3.316 CHILD ABUSE AND NEGLECT

Sec. 1. ANTIVICTIMIZATION PROGRAM

Richard Milburn Academy shall provide child abuse anti-victimization programs in secondary schools. *Education Code 38.004*.

Sec. 2. DUTY TO REPORT

a) Definition of Abuse

"Abuse" includes the following acts or omissions by a person:

(A) Mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;
(B) Causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning;
(C) Physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm;
(D) Failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;
(E) Sexual conduct harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of young child or children under Section 21.02, Penal Code, indecency with a child under Section 21.11, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;
(F) Failure to make a reasonable effort to prevent sexual conduct harmful to a child;
(G) Compelling or encouraging the child to engage in sexual conduct as defined by Section 43.01, Penal Code, including compelling or encouraging the child in a manner that constitutes an offense of trafficking of persons under Section 20A.02(a)(7) or (8), Penal Code, prostitution under Section 43.02(b), Penal Code, or compelling prostitution under Section 43.05(a)(2), Penal Code;
(H) Causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene as defined by Section 43.21, Penal Code, or pornographic;
(I) The current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical, mental, or emotional injury to a child;
(J) Causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code;
(K) Cusing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by Section 43.25, Penal Code;
(L) Knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked in a manner punishable as an offense under Section 20A.02(a)(5), (6), (7), or (8), Penal Code, or the failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under any of those sections; or
(M) Forcing or coercing a child to enter into a marriage.

Family Code 261.001(1).

b) Definition of Neglect

"Neglect" means an act or failure to act by a person responsible for a child's care, custody, or welfare evidencing the person's blatant disregard for the consequences of the act or failure to act that results in harm to the child or that creates an immediate danger to the child's physical health or safety. *Family Code 261.001(4).*

Neglect includes the leaving of a child in a situation where the child would be exposed to an immediate danger of physical or mental harm, without arranging for necessary care for the child, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child. *Family Code 261.001(4)(A)(i).*

Neglect includes the following acts or omissions by a person:

(a) Placing a child in, or failing to remove a child from, a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or an immediate danger of harm to the child;
(b) Failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting an immediate danger of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child;
(c) The failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused;
(d) Placing a child in, or failing to remove the child from, a situation in which the child would be exposed to an immediate danger of sexual conduct harmful to the child; or
(e) placing a child in or failing to remove the child from a situation in which the child would be exposed to acts or omissions that constitute abuse under Subdivision (E), (F), (G), (H), or (K), above, committed against another child.

Family Code 261.001(4)(A)(ii).

Neglect includes the failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away. *Family Code 261.001(4)(A)(iii).*

Neglect includes a negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program, including failure to comply with an individual treatment plan, plan of care, or individualized service plan, that causes or may cause substantial emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy. *Family Code 261.001(4)(A)(iv).*

Neglect does not include:

(a) the refusal by a person responsible for a child's care, custody, or welfare to permit the child to remain in or return to the child's home resulting in the placement of the child in the conservatorship of the department if: (i) the child has a severe emotional disturbance; (ii) the person's refusal is based solely on the person's inability to obtain mental health services necessary to protect the safety and well-being of the child; and (iii) the person has exhausted all reasonable means available to the person to obtain the mental health services described by item (ii) of this subsection;
(b) allowing the child to engage in independent activities that are appropriate and typical for the child's level of maturity, physical condition, developmental abilities, or culture; or
(c) A decision by a person responsible for a child's care, custody, or welfare to: (i) obtain an opinion from more than one medical provider relating to the child's medical care; (ii) transfer the child's medical care to a new medical provider; or (iii) transfer the child to another health care facility.

Family Code 261.001(4)(B)(i)-(iii)

c) ***General Duty to Report***

Any person who has cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as required by law. *Family Code 261.101(a)*. Richard Milburn Academy may not require that school personnel report suspicions of child abuse or neglect to a school administrator prior to making a report to one of the agencies identified in Sec. 4 below. *19 TAC 103.1401(b)(5)*.

d) ***Reporting Abuse or Neglect of Persons with Disabilities***

Any person who has cause to believe that a person with a disability who is over the age of 18 or who has had the disabilities of minority removed is in a state of abuse, neglect, or exploitation shall report the information immediately to the Texas Department of Family and

Protective Services ("DFPS").

A person filing a report or testifying or otherwise participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability on account of his or her petition, report, testimony, or participation, unless the person acted in bad faith or with a malicious purpose. *Human Resources Code 48.051, .054*.

e) ***Reporting Abuse or Neglect By A Professional***

Any professional who has cause to believe that a child has been or may be abused or neglected shall make a report as required by law. The report must be made within 48 hours after the professional first suspects abuse or neglect. A professional may not delegate to or rely on another person to make the report.

A "professional" is a person who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, employees of a clinic or health care facility that provides reproductive services, and juvenile probation, detention or correctional officers. *Family Code 261.101(b)*.

f) ***Reporting Adult Victims of Abuse***

A person or professional shall make a report in the manner required above if the person or professional has cause to believe that an adult was a victim of abuse or neglect as a child and the person or professional determines in good faith that disclosure of the information is necessary to protect the health and safety of another child or an elderly person or person with a disability. *Family Code 261.101(b-1)*.

g) ***Refusal of Psychiatric or Psychological Treatment of a Child***

An employee may not use the refusal of a parent, guardian, or managing or possessory conservator of a child to administer or consent to the administration of a psychotropic medication to a child, or to consent to any other psychiatric or psychological treatment of a child, as the sole basis for making a report of neglect of the child unless the refusal to consent:

1. Presents a substantial risk of death, disfigurement, or bodily injury to the child; or
2. Has resulted in an observable and material impairment to the growth, development, or functioning of the child.

Education Code 26.0091; *Family Code 261.111*.

Sec. 3. CONTENTS OF REPORT

The report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect. The person making the report shall identify, if known:

1. The name and address of the child;

2. The name and address of the person responsible for the care, custody, or welfare of the child;
3. The facts that caused the individual to believe the child has been abused or neglected and the source of the information;
4. The individual's name and telephone number;
5. The individual's (i) home address or, (ii) if the individual is a professional as defined by Family Code section 261.101(b), the individual's business address and profession; and
6. Any other pertinent information concerning the alleged or suspected abuse or neglect.

Family Code 261.102, .104.

Sec. 4. ENTITIES TO WHOM REPORTS MUST BE MADE REPORTED

If the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to the DFPS, unless the report is made under item 3, below, or the report involves a juvenile justice program or facility.

All other reports shall be made to:

1. Any local or state law enforcement agency;
2. The DFPS, including a local office where available;
3. The state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred; or
4. The agency designated by the court to be responsible for the protection of children.

Family Code 261.103(a); *19 TAC 103.1401(b)(1)*.

Sec. 5. IMMUNITIES

A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from any civil or criminal liability that might otherwise be incurred or imposed. *Family Code 261.106(a)*.

Richard Milburn Academy may not suspend or terminate the employment of, or otherwise discriminate against, a professional who makes a good faith report of abuse or neglect. *Family Code 261.110(b)*.

Sec. 6. CRIMINAL OFFENSES

a) ***Failure to Report***

A person commits a Class A misdemeanor if he or she has cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect and knowingly fails to report it as provided by law. Failure to report child abuse or neglect violates the Educator's Code of Ethics and may result in sanctions against an educator's certificate, as addressed in 19 TAC 249. *Family Code 261.109*; *19 TAC 103.1401(b)(2)(A)*.

b) ***False Report***

A person commits an offense if, with the intent to deceive, the person knowingly makes a report of abuse and neglect that is false. The offense is a state jail felony, except that it is a felony of the third degree if the person has previously been convicted of the offense. *Family Code 261.107(a)*.

c) ***Coercion***

A school employee who coerces another into suppressing or failing to report child abuse or neglect to a law enforcement agency may be subject to Class C misdemeanor penalties. *Penal Code 39.06*.

Sec. 7. POTENTIAL SBEC PENALTIES

The State Board for Educator Certification (SBEC) may take action as allowed under 19 TAC 249.15(a) based on satisfactory evidence that a person has failed to report or has hindered the reporting of child abuse as required under Family Code 261.001, or has failed to notify the SBEC

or the Superintendent or designee under the circumstances and in the manner required by Education Code 21.006 and 19 TAC 249.14(d)-(f). *19 TAC 249.15(b)(4)*.

Sec. 8. CONFIDENTIALITY

A report of alleged or suspected abuse or neglect and the identity of the person making the report is confidential and not subject to release under Government Code Chapter 552 (Public Information Act). Such information may be disclosed only for purposes consistent with federal or state law or under rules adopted by an investigating agency. *Family Code 261.201*.

Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only to a law enforcement officer for the purposes of a criminal investigation of the report, or as ordered by a court under Family Code 261.201. *Family Code 261.101(d)*.

Sec. 9. INVESTIGATIONS

a) Reports to the School

If the DFPS initiates an investigation and determines that the abuse or neglect involves a Richard Milburn Academy employee, and that the child is a student at Richard Milburn Academy, the department shall orally notify the Superintendent. *Family Code 261.105(d)*.

The DFPS shall, upon request, send a written report of its investigation, as appropriate, tothe Principal, unless the Principal is alleged to have committed the abuse or neglect, to the Board, and to the Superintendent. *Family Code 261.406(b)*.

b) Interviewing Students

The investigating agency shall be permitted to interview the child at any reasonable time and

place, including the child's school. *Family Code 261.302(b)*.

c) Interfering with Investigation Confidentiality

A person may not interfere with an investigation of a report of child abuse or neglect conducted by the DFPS. *Family Code 261.303(a)*.

A photograph, videotape, audiotape, or other audio or visual recording, depiction, or documentation of a child that is made by DFPS in the course of an inspection or investigation is confidential, is not subject to release under the Texas Public Information Act, and may be released only as required by state or federal law or rules adopted by the DFPS. *Human Resources Code 42.004*.

Sec. 10. ANNUAL REVIEW

The Board shall annually review policies for reporting child abuse and neglect. The policies shall follow the requirements of Family Code Chapter 261, 19 TAC 103.1401, and 40 TAC Chapter 700 with respect to investigations by DFPS.

Sec. 11. VIOLATIONS OF POLICY

Any Richard Milburn Academy employee who violates the reporting requirements under Chapter 261, Family Code is subject to disciplinary action, up to and including termination of employment.

Sec. 12. ANNUAL DISTRIBUTION AND STAFF DEVELOPMENT

The Superintendent or designee shall develop additional guidelines concerning the reporting of suspected child abuse and neglect. Such guidelines shall be distributed to all personnel at the beginning of each school year and shall be addressed in staff development programs at regular intervals determined by the Board. *19 TAC 103.1401(c)*.

Richard Milburn Academy shall adopt and disseminate to all charter school staff and volunteers a policy governing child abuse reports required by Texas Family Code, Chapter 261. The policy shall require that employees, volunteers, or agents of the charter holder and the charter school report child abuse or neglect directly to an appropriate entity listed in Texas Family Code, Chapter 261. *19 TAC 100.1211(b), .1401(b)*.

Each school year, Richard Milburn Academy shall provide training as required by Education Code 38.0041 to all new school employees as part of new employee orientation. *Education Code 38.0041*; *19 TAC 100.1401(d)*.

A new governing board member or officer of Richard Milburn Academy/Texas, Inc. defined as any board member or officer who has not served in their position or similar position requiring the core program training with a Texas charter school in the last three years, must complete core training that consists of identifying child abuse and human trafficking. *19 TAC 100.1117(d)*.

Sec. 13. REQUIRED POSTER

Richard Milburn Academy shall place a poster of the following specifications at every campus in at least one high-traffic, highly and clearly visible public area that is readily accessible to and widely used by students. The poster must:

1. Be in a format and language that is clear, simple, and understandable to students;
2. Be in English and in Spanish;
3. Be 11x17 inches or larger;
4. Be in large print;
5. Be placed at eye-level to the student for easy viewing; and
6. Include the following information:
   a. In bold print, the current toll-free DFPS abuse Hotline telephone number (1-800-252- 5400);
   b. Instructions to call 911 for emergencies; and
   c. Directions for accessing the DFPS website (http://www.txabusehotline.org) for more information on reporting abuse, neglect, and exploitation.

Education Code 38.0042; *19 TAC 103.1401(e), (f)*.

Sec. 14. POSTING OF WARNING SIGNS OF INCREASED TRAFFICKING PENALTIES

Richard Milburn Academy shall post warning signs of the increased penalties for trafficking of persons under Penal Code 20A.02(b-1)(2) in a conspicuous place reasonably likely to be viewed by all school employees and visitors. Each warning sign must:

1. Describe the offense of trafficking of persons a provided under Penal Code 20A.02(a). The sign must emphasize that an offense under Penal Code 20A.02 is a felony of the first degree punishable by imprisonment in the Texas Department of Criminal Justice for life or for a term of not more than 99 years or less than 25 years if it is shown on the trial of the offense that the actor committed the offense in a location that was:

   a. On the premises of or within 1,000 feet of the premises of (i) a school, (ii) a juvenile detention facility, (iii) a post-adjudication secure correctional facility, (iv) a shelter or facility operating as a residential treatment center that serves runaway youth, foster children, people who are homeless, or persons subjected to human trafficking, domestic violence, or sexual assault, (v) a community center offering youth services and programs, (vi) a child-care facility, as defined by Human Resources Code 42.002, or (vii) an institution of higher education or private or independent institution of higher education, as defined by Education Code 61.003; or

   b. On premises or within 1,000 feet of premises where (i) an official school function was taking place, or (ii) an event sponsored or sanctioned by the University Interscholastic League was taking place;

2. Be written in English and Spanish;

3. Be at least 8.5 x 11 inches in size; and

4. Be properly maintained to ensure readability and protection from the elements for outdoor signs.

19 TAC 103.1403(b)-(c).

PG-3.317 SEXUAL ABUSE, SEX TRAFFICING, AND OTHER MALTREATMENT OF CHILDREN

The Superintendent shall develop and publish a plan for addressing sexual abuse, sex trafficking, and other maltreatment of children as required by Texas Education Code 38.0041. Such plan shall include:

1. Methods for increasing staff, student, and parent awareness of issues regarding sexual abuse, sex trafficking, and other maltreatment of children, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim of sexual abuse, sex trafficking, or other maltreatment, using resources developed by the Texas Education Agency ("TEA");
2. Actions that a child who is a victim of sexual abuse, sex trafficking, or other maltreatment should take to obtain assistance and intervention; and
3. Available counseling options for students affected by sexual abuse, sex trafficking, or other maltreatment.

Richard Milburn Academy shall provide employee training concerning prevention techniques for and recognition of sexual abuse, sex trafficking, and all other maltreatment of children, including the sexual abuse, sex trafficking, and other maltreatment of children with significant cognitive disabilities. The training:

1. Must be provided, as part of a new employee orientation, to new Richard Milburn Academy employees, including counselors and coaches, and other professional staff members according to a schedule adopted by the TEA until all employees have taken the training; and
2. Must include training concerning:
   a. Factors indicating a child is at risk for sexual abuse, sex trafficking, or other maltreatment;
   b. Likely warning signs indicating a child may be a victim of sexual abuse, sex trafficking, or other maltreatment;
   c. Internal procedures for seeking assistance for a child who is at risk for sexual abuse, sex trafficking, or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;
   d. Techniques for reducing a child's risk of sexual abuse, sex trafficking, or other maltreatment; and
   e. Community organizations that have relevant existing research-based programs that are able to provide training or other education for school district or open-enrollment charter school staff members, students, and parents.

Richard Milburn Academy shall maintain records that include the name of each staff member who participated in the training.

If the Superintendent or designee determines that Richard Milburn Academy does not have

sufficient resources to provide the training required under this policy, Richard Milburn Academy shall work in conjunction with a community organization to provide the training at no cost to Richard Milburn Academy.

Education Code 38.0041.

PG-3.318 STUDENTS CONCUSSION RESPONSE POLICY

SEC. 1. CONCUSSION RESPONSE POLICY

f) *Policy*

Richard Milburn Academy shall adopt and implement a policy regarding how to respond to a concussion believed to have been sustained by a student while on school property or participating in a school-sponsored or school-related activity on or off school property.

It is Richard Milburn Academy's policy to:

1. Immediately remove a student from a school-sponsored or school-related activity if a school employee or volunteer believes the student might have sustained a concussion;
2. Provide notice to the student's parent or guardian or another person with legal authority to make medical decisions for the student of the student's suspected concussion and removal; and
3. Allow the student to return to a school-sponsored or school-related activity only after the requirements under Education Code 38.157(a) have been satisfied.

Education Code 38.173.

g) *Scope*

This Policy does not apply to a concussion believed to have been sustained by a student while participating in an interscholastic athletic activity, including practice and competition, sponsored or sanctioned by:

1. A school district, including a home-rule school district, or a public school, including any school for which a charter has been granted under Chapter 12; or
2. The University Interscholastic League.

Education Code 38.172.

For concussions sustained in interscholastic athletic activities described above, see Board Policy PG-3.506.

SEC. 2. ACADEMIC ACCOMMODATIONS

Richard Milburn Academy may provide nonmedical academic accommodations to a student diagnosed with a concussion or other brain injury in accordance with the list of accommodations and form developed by the Texas Education Agency (the "Agency").

If Richard Milburn Academy provides such accommodations, Richard Milburn Academy shall make the form

developed by the Agency available to:

1. A school employee as soon as practicable after receiving:
    a. Notice that a student enrolled in the district has been diagnosed with a concussion or other brain injury; or
    b. A request from the employee; and
2. A student enrolled in the School or the student's parent or guardian as soon as practicable after receiving:
    a. Notice that the student has been diagnosed with a concussion or other brain injury; or
    b. A request from the student or parent or guardian.

Education Code 38.0051.

PG-3.319 SUPPORT SERVICES: HIGHLY MOBILE STUDENTS

Sec. 1. DEFINITIONS

"Homeless" – This term has the meaning assigned to the term "homeless children and youths" under the McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11434a.

"Substitute Care" – This term means the placement of a child who is in the conservatorship of the Department of Family Protective Services ("DFPS") in care outside the child's home. The term includes foster care, institutional care, pre-adoptive homes, placement with a relative of the child, or commitment to the Texas Juvenile Justice Department under Texas Family Code § 263.001(a)(4).

Sec. 2. LIAISON FOR STUDENTS WHO ARE HOMELESS

As a condition of receiving funds under the McKinney-Vento Homeless Assistance Act ("McKinney-Vento"), Richard Milburn Academy has designated the following staff person(s) as a McKinney-Vento Liaison, who is responsible to ensure that homeless children and youth are identified and enrolled, with a full and equal opportunity to succeed in schools:

Name: Amy Wood
Position: Director of Student Services
Address: 401 E. Sonterra Boulevard, Suite 375, San Antonio Texas 78258
Telephone: 210-275-0450

a) *Notice*

Richard Milburn Academy shall provide notice of the McKinney-Vento Liaison's duties to school personnel, service providers, advocates working with homeless families, parents and guardians of homeless children and youth, and homeless children and youth.

Richard Milburn Academy shall also notify the Texas Education Agency of each designated McKinney-Vento Liaison.

42 U.S.C. § 11432(g)(6)(B).

b) ***Duties of McKinney-Vento Liaison***

Each McKinney-Vento Liaison shall ensure that:

1. Homeless children and youths are identified by school personnel through outreach and coordination activities with other entities and agencies;

2. Homeless children and youths are enrolled in, and have a full and equal opportunity to succeed in, Richard Milburn Academy;

3. Homeless families and homeless children and youths have access to and receive educational services for which such families, children, and youths are eligible, including services through Head Start programs (including Early Head Start programs), early intervention services under part C of the Individuals with Disabilities Education Act, and other preschool programs administered by Richard Milburn Academy, to the extent such programs are offered by Richard Milburn Academy;

4. Homeless families and homeless children and youths receive referrals to health care services, dental services, mental health and substance abuse services, housing services, and other appropriate services;

5. The parents or guardians of homeless children and youths are informed of the educational and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children;

6. Public notice of the educational rights of homeless children and youths is disseminated in locations frequented by parents or guardians of such children and youths, and unaccompanied youths, including schools, shelters, public libraries, and soup kitchens, in a manner and form understandable to the parents and guardians of homeless children and youths, and unaccompanied youths;

7. Enrollment disputes are mediated in accordance with the McKinney-Vento Act;

8. The parent or guardian of a homeless child or youth, and any unaccompanied youth, is fully informed of all transportation services available under the McKinney-Vento Act, including transportation to the school of origin, and is assisted in accessing transportation to the school of enrollment;

9. School personnel providing services under the McKinney-Vento Act receive professional development and other support; and

10. Unaccompanied youths—

    a. Are enrolled in school;
    b. Have opportunities to meet the same challenging state academic standards as the state establishes for other children and youth; and
    c. Are informed of their status as independent students under the Higher Education Act of 1965 and that the youths may obtain assistance from the local educational agency liaison to receive verification of such status for purposes of the Free Application for Federal Student Aid.

42 U.S.C. § 11432(g)(6)(A).

The McKinney-Vento Liaison may affirm, without further action by the Department of Housing and Urban Development, that a child who is eligible for and participating in a program, or the immediate family of such a child, who meets the eligibility requirements of the McKinney-Vento Act for an authorized program or service under Title IV of the Act, is eligible for such program or service. *42 U.S.C. 11432(g)(6)(D)*.

Sec. 3. Liaison for Children in State Conservatorship

The Superintendent shall designate at least one employee to act as a liaison officer to facilitate the enrollment in or transfer to a public school of a child in Richard Milburn Academy who is in the conservatorship of the state and submit the liaison's name and contact information to the Texas Education Agency in a format and under the schedule determined by the Commissioner of Education. *Education Code 33.904*.

PG-3.320 SUPPORT SERVICES: TRANSITION ASSISTANCE

Sec. 1. Transition Assistance for Highly Mobile Students

a) *Definitions*

"Educational and course programs" means programs intended to provide instruction to students in conjunction with or outside of the required curriculum, which may include, but are not limited to, gifted and talented services, bilingual or special language services for emergent bilingual students, career and technical education, and early college high school.

"Enrollment conference" means a student-centered meeting between key Richard Milburn Academy staff and the newly enrolled student and/or the student's parent or guardian that occurs within the first two weeks of enrollment, as soon as feasible, at a new school to collaboratively ease transitions; identify the student's academic strengths and extracurricular interests; introduce school processes and opportunities for engagement; and identify any interventions and additional support services (e.g., special education or Section 504 services, academic and/or behavioral interventions, social and emotional needs, college and career readiness). The student's attendance in the conference should be addressed on a case-by-case basis.

"Records" means documents in printed or electronic form that include, but are not limited to, student transcripts; individual course grades; academic achievement records; course credits, whether full or partial; individualized education program referrals; intervention data; immunizations; state assessment scores; student attendance data; disciplinary reports; graduation endorsements; special education/Section 504 committee records; performance acknowledgements; and personal graduation plans.

"Welcome packet" means a compilation school and community resources provided to new students within the first two weeks of enrollment at a new school that helps to familiarize the student with the school.

19 TAC 89.1601(2), (4), (9), (11).

b) *Record Transfers*

Richard Milburn Academy shall ensure that school records for students who are identified as homeless or in substitute care are transferred to the student's new school after receiving a request for records. Student records must be requested, sent, and received using the Texas Records Exchange ("TREx") system.

Richard Milburn Academy is required to transfer student records within ten working days of receipt of a request from a district to which a student who is homeless or in substitute care enrolls. The discretionary authority under Education Code 31.104(d) to withhold records of a student if the student has not returned or paid for instructional materials or technological equipment does not exempt Richard Milburn Academy from the mandatory provision to send records to another public school in which the student enrolls.

19 TAC 89.1603.

c) *Systems to Ease Transitions*

Richard Milburn Academy shall develop systems to ease transition of a student who is homeless or in substitute care during the first two weeks of enrollment at a new school. These systems shall include the following:

1. Welcome packets containing applicable information regarding enrollment in extracurricular activities, club activities, information on fee waivers, tutoring opportunities, the student code of conduct, available student supports, and contact information for key school staff members such as principals, registrars, counselors, designated liaisons, nutrition coordinators, and transportation specialists;
2. Introductions for new students that maintain student privacy and confidentiality to the school environment and school processes by school faculty, campus-based student leaders, or ambassadors; and
3. Mechanisms to ensure that a process is in place for all students who qualify to receive nutrition benefits upon enrollment, as all students who are homeless or in substitute care are eligible for United States Department of Agriculture Child Nutrition Programs. The process must expedite communication with the Richard Milburn Academy nutrition coordinator to ensure that eligible students are not charged in error or experience delays in receiving these benefits.

19 TAC 89.1605(a).

Richard Milburn Academy must provide professional development opportunities and resources to support key staff members such as principals, registrars, counselors, designated liaisons, nutrition coordinators, and transportation specialists on local processes and procedures for facilitating successful school transitions for students who are homeless or in substitute care. *19 TAC 89.1605(c)*.

A district must use the TREx, the Personal Identification Database ("PID"), or the Person Enrollment Tracking ("PET") application to facilitate records transfer and expedite coordination and communication between the sending and receiving schools. In cases where records from the student's previous school are missing or cannot be located, Richard Milburn Academy should use the Texas Student Data System ("TSDS") Unique ID application to identify where the student was previously enrolled.

19 TAC 89.1605(c)–(d).

d) *Enrollment Conference*

Richard Milburn Academy shall convene an enrollment conference within the first two weeks or as soon as feasible, after a student who is homeless or in substitute care enrolls in the school. The convening of the enrollment conference shall not delay or impede the enrollment of the student.

The student's attendance in the conference should be addressed on a case-by-case basis. The enrollment conference may be used in conjunction with an existing meeting that is designed for similar purposes for newly enrolled students.

The enrollment conference shall address the student's credit recovery, credit completion, attendance plans and trauma-informed interventions, interests and strengths, discipline or behavior concerns, previous successes, college readiness, and social and emotional supports as well as district policies relating to transfers and withdrawals and communication preferences with parents or guardians.

The enrollment conference may be comprised of:

1. School administrators;
2. McKinney-Vento or foster care liaisons;
3. Social workers;
4. Teachers;
5. School counselors;
6. Dropout prevention specialists;
7. Attendance/truancy officers;
8. The relative caregiver, foster placement caregiver, or DFPS caseworker;
9. The DFPS designated educational decision-maker;
10. The DFPS caseworker, Court Appointed Special Advocates ("CASA") volunteer, or other volunteers, as applicable; and
11. A parent or guardian, unless the caseworker indicates the parent's or guardian's rights to participate have been restricted by the court.

19 TAC 89.1605(b).

e) ***Placement in Educational Programs and Courses***

Richard Milburn Academy must establish procedures to receive, review, and assess student records for the initial course and educational program placement for a student who is homeless or in substitute care upon enrollment at a new school.

Richard Milburn Academy must ensure that a student who is homeless or in substitute care has the opportunity to pursue the same endorsement categories, to the extent possible. If only one endorsement is offered, it must be multidisciplinary studies.

To the extent possible, Richard Milburn Academy shall ensure the continuation of a student's course and educational programs, if appropriate, from the previous district by placing the student in comparable courses and programs for which they are eligible.

Richard Milburn Academy shall promote placement in academically challenging and career preparation courses.

19 TAC 89.1609.

f) ***Promotion of Access to Educational and Extracurricular Programs, etc.***

Richard Milburn Academy will develop processes to increase awareness of opportunities available to students who are homeless or in substitute care to participate in extracurricular programs, summer programs, credit transfer services, electronic courses, and after-school tutoring programs.

Richard Milburn Academy must identify and remove barriers, whenever possible, to participation by students who are homeless or in substitute care in extracurricular programs, summer programs, credit transfer services, electronic courses, and after-school tutoring programs.

Appropriate school staff must facilitate the process to complete and submit a University Interscholastic League ("UIL") waiver of residence application form for a student who is homeless and plans to participate in varsity athletics, if Richard Milburn Academy participates in UIL varsity athletics.

In compliance with Education Code 25.001(f), a durational residence requirement may not be used to prohibit a student in substitute care from fully participating in any activity sponsored by Richard Milburn Academy.

19 TAC 89.1611.

g) ***Students Experiencing Homelessness***

McKinney-Vento Liaisons must inform unaccompanied homeless youths of their status as independent students for the purpose of applying for financial aid for higher education and provide verification of such status for the Free Application for Federal Student Aid ("FAFSA"). School counselors must also assist and advise students experiencing homelessness with college preparation and readiness. *19 TAC 89.1613(a)–(b)*.

h) ***Students in Substitute Care***

Richard Milburn Academy shall ensure that a student in substitute care who is enrolled in grade 11 or 12 is provided information regarding tuition and fee exemptions under Education Code 54.366, for dual-credit or other courses provided by a public institution of higher education for which a high school student may earn joint high school and college credit.

Richard Milburn Academy shall inform students in substitute care of tuition and fee exemptions under Education Code 54.367, regarding monthly payments, medical assistance benefits, and reimbursement of fees.

Richard Milburn Academy shall ensure students in substitute care are informed that every higher education institution in Texas has a designated foster care liaison to assist students.

Foster care liaisons are encouraged to support students in substitute care with linking to colleges to develop connections and facilitate effective transitions into postsecondary education.

Foster care liaisons, school counselors, and others must assist students with seeking and applying for all types of scholarships for which the student may qualify.

19 TAC 89.1613(c).

i) ***Notice to Educational Decision-Makers and Caseworkers***

Richard Milburn Academy must provide notice in writing to the educational decision-maker and caseworker of a student who is in substitute care regarding events that may significantly impact the education of the student. *19 TAC 89.1617*.

Events that may significantly impact the education of a child include:

1. Requests or referrals for an evaluation under Section 504 or special education under Education Code 29.003;
2. Admission, review, and dismissal committee meetings;
3. Manifestation determination reviews;
4. Any disciplinary actions under Education Code Chapter 37 for which parental notice is required;
5. Citations issued for Class C misdemeanor offenses on school property or at school-sponsored activities;
6. Reports of restraint and seclusion required by Education Code 37.0021;
7. Use of corporal punishment as provided by Section 37.0021; and
8. Appointment of a surrogate parent for the child under Education Code 29.0151.

Education Code 25.007(b)(10).

Sec. 2. CHILD WELFARE CONTACT

As a condition of receiving Title I, Part A funds, Richard Milburn Academy must collaborate with the state or local child welfare agency to designate a point of contact if the child welfare agency notifies Richard Milburn Academy, in writing, that the agency has designated an employee to serve as a point of contact for the school. *20 U.S.C. 6312(c)(5)(A)*.

PG-3.321 STUDENT HEALTH ADVISORY COUNCIL

Sec. 1. Establishment of a Student Health Advisory Council

The Board shall establish a local student health advisory council ("SHAC"). *Education Code 12.104(b)(3)(DD)*; *28.004*.

The purposes of the SHAC are (1) to assist Richard Milburn Academy in ensuring that local community values are reflected in the school's health education instruction and (2) to make recommendations before Richard Milburn Academy changes its health education curriculum or instruction. *Education Code 28.004(a), (b)*.

a) *SHAC Membership*

The Board shall appoint at least five members to the SHAC. A majority of members must be persons who are parents of students enrolled in Richard Milburn Academy and who are not employed by Richard Milburn Academy. One of those members shall serve as chair or co-chair of the SHAC.

The Board may also appoint one or more persons from each of the following groups or a representative from a group other than a group specified:

1. Classroom teachers employed by Richard Milburn Academy;
2. School counselors certified under Education Code Chapter 21, Subchapter B, employed by Richard Milburn Academy;
3. School administrators employed by Richard Milburn Academy;
4. Richard Milburn Academy students;
5. Health-care professionals licensed or certified to practice in this state, including medical or mental health professionals;
6. The business community;
7. Law enforcement;
8. Senior citizens;
9. The clergy;
10. Nonprofit health organizations; and
11. Local domestic violence programs.

Education Code 28.004(d).

b) *SHAC Duties*

The duties of the SHAC include recommending:

1. The number of hours of instruction to be provided in:
    a. Health education in kindergarten through grade eight; and
    b. If Richard Milburn Academy requires health education for high school graduation, health education, including physical health education and mental health education, in grades 9 through 12;
2. Policies, procedures, strategies, and curriculum appropriate for specific grade levels designed to prevent physical health concerns, including obesity, cardiovascular disease, Type 2 diabetes, and mental health concerns, including suicide, through coordination of:

a. Health education, which must address physical health concerns and mental health concerns to ensure the integration of physical health education and mental health education

b. Physical education and physical activity;

c. Nutrition services;

d. Parental involvement;

e. Instruction on substance abuse prevention;

f. School health services including mental health services;

g. A comprehensive school counseling program;

h. A safe and healthy school environment; and

i. Employee wellness;

3. Appropriate grade levels and methods of instruction for human sexuality instruction'

4. Strategies for integrating curriculum components specified in subparagraph 2 with the following elements in a coordinated school health program for the school:

a. School health services, including physical health service and mental health services, if provided at a campus by Richard Milburn Academy or a third party under a contract with the school;

b. A comprehensive school counseling program;

c. A safe and healthy school environment; and

d. School employee wellness;

5. If feasible, joint use agreements or strategies for collaboration between Richard Milburn Academy and community organizations or agencies;

6. Strategies to increase parental awareness regarding:

a. Risky behaviors and early warning signs of suicide risks and behavioral health concerns, including mental health disorders and substance use disorders; and

b. Available community programs and services that address risky behaviors, suicide risks, and behavioral health concerns;

7. Appropriate grade levels and curriculum for instruction regarding the dangers of opioids, including instruction on:

a. Opiate addiction and abuse, including addiction to and abuse of synthetic opioids such as fentanyl; and

b. Methods of administering an opioid antagonist, as defined by Health and Safety Code 483.101; and

8. Appropriate grade levels and curriculum for instruction regarding child abuse, family violence, dating violence, and sex trafficking, including likely warning signs that a child may be at risk for sex trafficking, provided that the SHAC's recommendations do not conflict with the essential knowledge and skills developed by the State Board of Education.

Education Code 28.00(c).

Any joint use agreement that Richard Milburn Academy and a community organization or agency enter into based on a recommendation of the SHAC must address liability for Richard Milburn Academy and community organization or agency in the agreement. *Education Code 28.004(n)*.

The SHAC shall consider and make policy recommendations to Richard Milburn Academy concerning the importance of daily recess for elementary students. The SHAC must consider research regarding unstructured and undirected play, academic and social development, and the health benefits of daily recess in making the recommendations. The SHAC shall ensure that local community values are reflected in any policy recommendation made to Richard Milburn Academy. *Education Code 28.004(l)*.

The SHAC shall make policy recommendations to Richard Milburn Academy to increase parental awareness of suicide-related risk factors and warning signs and available community suicide prevention services. *Education Code 28.004(o)*.

Sec. 2. <u>SHAC Meetings</u>

The SHAC shall meet at least four times each year. For each meeting, the SHAC shall:

1. At least 72 hours before the meeting:

    a. Post notice of the date, hour, place, and subject of the meeting on a bulletin board in the central administrative office of each Richard Milburn Academy campus; and

    b. Ensure that the required notice is posted on the school's Internet website, if Richard Milburn Academy has an Internet website;

2. Prepare and maintain minutes of the meeting that state the subject and content of each deliberation and each vote, order, decision, or other action taken by the council during the meeting;

3. Make an audio or video recording of the meeting; and

4. Not later than the tenth day after the meeting, submit the minutes and audio or video recording of the meeting

to Richard Milburn Academy.

As soon as practicable after receipt of the minutes and audio or video recording, Richard Milburn Academy shall post the minutes and audio or video recording on the school's Internet website, if Richard Milburn Academy has an internet website.

Education Code 28.004(d-1), (d-2).

Sec. 3. <u>SHAC Subcommittee</u>

The SHAC shall establish a physical activity and fitness planning subcommittee to consider issues relating to student physical activity and fitness and make policy recommendations to increase physical activity and improve fitness among students. *Education Code 28.004(l-1)*.

Sec. 4. <u>Required Reports</u>

In addition to performing other duties, the SHAC shall submit to the Board, at least annually, a written report that includes:

1. Any SHAC recommendation concerning Richard Milburn Academy's health education curriculum and instruction or related matters that the council has not previously submitted to the Board;
2. Any suggested modification to a SHAC recommendation previously submitted to the Board;
3. A detailed explanation of the SHAC's activities during the period between the date of the current report and the date of the last prior written report; and
4. Any recommendations made by the physical activity and fitness planning subcommittee.

Education Code 28.004(m).

Sec. 5. <u>Required Notifications</u>

Richard Milburn Academy shall publish in the student handbook and on the Richard Milburn Academy Internet website, if the school has a website:

1. A statement of the policies and procedures adopted to promote the physical health and mental health of students, the physical health and mental health resources available at each campus, contact information for the nearest providers of essential public health services under Chapter 121, Health and Safety Code, and the contact information for the nearest local mental health authority;

2. A statement of the policies adopted to ensure that elementary school, middle school, and junior high school students engage in at least the amount and level of physical activity required by Education Code 28.002(1);

3. A statement of:

    a. The number of times during the preceding year the SHAC has met;

    b. Whether Richard Milburn Academy has adopted and enforces policies to ensure that school campuses comply with Texas Education Agency vending machine and food service guidelines for restricting student access to vending machines; and

    c. Whether Richard Milburn Academy has adopted and enforces policies and procedures that prescribe penalties for the use of e-cigarettes, as defined by Education Code 38.006, and tobacco products by students and others on school campuses or at school-sponsored or school-related activities;

    d. A statement providing notice to parents that they can request in writing their child's physical fitness assessment results at the end of the school year; and

    e. For each Richard Milburn Academy campus, a statement of whether the campus has a full-time nurse or full-time school counselor.

Education Code 28.004(k).

PG-3.401 STUDENT RIGHTS AND RESPONSIBILITES

Each student is expected to respect the rights and privileges of other students, teachers, and Richard Milburn Academy staff. All teachers, administrators, and other Richard Milburn Academy personnel are expected to respect the rights and privileges of students.

Sec. 1. STUDENT HANDBOOK

The Superintendent or designee shall develop student handbooks with information on curriculum, grading, extracurricular activities, and other such topics that students and parents are likely to need during the school year. The Superintendent or designee shall ensure that no student handbook information is in conflict with policy or the Student Code of Conduct. In case of conflict between a Board policy or the Student Code of Conduct and provisions of student handbooks, Board policy shall prevail.

Sec. 2. DISTRIBUTION

Student handbooks shall be made available on the Richard Milburn Academy website at the beginning of the school year; hard copy shall be provided upon request. Amendments to the Student Handbook shall be communicated promptly to students and parents.

PG-3.402 STUDENT DISCIPLINE

Sec. 1. GENERAL GUIDELINES

Richard Milburn Academy personnel shall adhere to the following general guidelines when imposing discipline:

1. A student shall be disciplined when necessary to improve the student's behavior, to maintain essential order, or to protect other students, school employees, orproperty.
2. Students shall be treated fairly and equitably. Discipline shall be based on a careful assessment of the circumstances of each case.

Disciplinary consequences shall not have the effect of discriminating on the basis of gender, race, color, disability, religion, ethnicity, age, or national origin.

Sec. 2. STUDENT CODE OF CONDUCT

The Board shall adopt a Student Code of Conduct, which shall establish standards for behavior and identify general types of prohibited behavior and their possible consequences. The Student Code of Conduct shall also outline Richard Milburn Academy's due process procedures with respect to expulsion. *Education Code 12.131(a)*.

At the beginning of the school year and throughout the school year as necessary, the Student Code of Conduct shall be:

1. Made available for review in the Principal's office; and
2. Made available on the Richard Milburn Academy website and/or as hard copy to students, parents, teachers, administrators, and to others on request.

Revisions to the Student Code of Conduct approved by the Board during the year shall be made available promptly to students and parents, teachers, administrators, and others.

Sec. 3. OUT-OF-SCHOOL SUSPENSION AND STUDENTS WHO ARE HOMELESS

Richard Milburn Academy may not place a student who is homeless in out-of-school suspension unless the student engages in the following conduct while on school property or while attending a school-sponsored or school-related activity on or off of school property:

1. Conduct that contains the elements of an offense-related to weapons under Penal Code 46.02 or 46.05;
2. Conduct that contains the elements of a violent offense under Penal Code 22.01, 22.011, 22.02, or 22.021; or
3. Selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of:

a. Marijuana or a controlled substance, as defined by Health and Safety Code Chapter 481 or by 21 USC 801;
b. A dangerous drug, as defined by Health and Safety Code Chapter 483; or
c. An alcoholic beverage, as defined by Alcoholic Beverage Code 1.04.

Education Code 37.005(d).

Sec. 4. CORPORAL PUNISHMENT

The Board prohibits the use of corporal punishment in Richard Milburn Academy. Students shall not be spanked, paddled, or otherwise physically disciplined for violations of the Student Code of Conduct.

Sec. 5. EXTRACURRICULAR STANDARDS OF BEHAVIOR

Sponsors and coaches of extracurricular activities may develop and submit for approval standards of behavior that are higher than the Richard Milburn Academy-developed Student Code of Conduct and may condition membership or participation in the activity on adherence to those standards. Extracurricular standards of behavior may take into consideration conduct that occurs at any time, on or off Richard Milburn Academy property. Extracurricular behavioral standards shall not have the effect of discriminating on the basis of gender, race, color, disability, religion, ethnicity, age, or national origin.

Students shall be informed of any extracurricular behavior standards at the beginning of each school year or when the students first begin participation in the activity. Students and their parents shall sign and return to the sponsor or coach a statement that they have read the extracurricular behavior standards and consent to them as a condition of participation in the activity.

Standards of behavior for an extracurricular activity are independent of the Student Code of Conduct. Violations of these standards of behavior that are also violations of the Student Code of Conduct may result in independent disciplinary actions.

A student may be removed from participation in extracurricular activities or may be excluded from school honors for violation of extracurricular standards of behavior for an activity or for violation of the Student Code of Conduct.

Sec. 6. EXPULSION

The Superintendent or designee shall determine conduct for which students may be expelled from school. Expellable offenses shall be described in the Student Code of Conduct, which shall be distributed to students and parents on an annual basis, as well as made available at each Richard Milburn Academy campus and posted on the Richard Milburn Academy website. *Education Code 12.131*.

a) Federal Firearm Provision

In accordance with the Gun-Free Schools Act, Richard Milburn Academy shall expel from

the student's regular program, for a period of one year, any student who is determined to have brought a firearm, as defined by federal law, to any Richard Milburn Academy campus. The Superintendent may modify the term of expulsion for a student or assess another comparable penalty that results in the student's exclusion from the regular school program on a case-by-case basis. *18 U.S.C. 922*.

For the purposes of this provision, "firearm" means:

1. Any weapon (including a starter gun), which will or is designed to or which may readily be converted to expel a projectile by the action of an explosive;
2. The frame or receiver of any such weapon;
3. Any firearm muffler or firearm silencer; or
4. Any destructive device. "Destructive device" means any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or device similar to any of the preceding described devices. It also means any type of weapon (other than a shotgun shell or a shotgun that is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and any combination of parts either designed or intended for use in converting any device into a destructive device as described in this item, and from which a destructive device may be readily assembled.

18 U.S.C. 921(a).

b) **Expulsion Proceedings**

i. *Due Process*

Before a student may be expelled, the Board or its designee shall provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution. The minimum procedural requirements necessary to satisfy due process depend upon the circumstances and the interests of the parties involved. Federal due process requires notice and some opportunity for hearing.

ii. *Notice*

The notice should contain a statement of the specific charges and grounds that, if proven, would justify expulsion. In some cases, the student should be given the names of the witnesses against him or her and an oral or written report on the facts to which each witness testifies.

iii. *Hearing*

The rights of the student may properly be determined upon the hearsay evidence of school administrators who investigate disciplinary infractions.

iv. *Representative*

At the hearing, the student is entitled to be represented by the student's parent, guardian, or another adult who can provide guidance to the student and who is not an employee of Richard Milburn Academy. If Richard Milburn Academy makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing, Richard Milburn Academy may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends.

v. *Term of Expulsion*

If the period of expulsion is inconsistent with the guidelines on length of expulsion in the Student Code of Conduct, the order must give notice of the inconsistency.

vi. *Appeals*

The Superintendent or designee shall develop an appeal process for expulsion decisions; this process shall recognize the Board's final authority to hear or decide a parent or student appeal of an expulsion. The Superintendent or designee shall ensure that the appeal process is made available to students and parents through the Student Handbook. The Board's decision is final and may not be appealed.

Disciplinary consequences shall not be deferred pending an appeal.

PG-3.403 CARE OF SCHOOL PROPERTY

A parent or other person who has the duty of control and reasonable discipline of a child is liable for any property damage proximately caused by:

1. The negligent conduct of the child if the conduct is reasonably attributable to the negligent failure of the parent or other person to exercise that duty; or
2. The willful and malicious conduct of a child who is at least ten years of age but under 18 years of age.

Family Code 41.001.

PG-3.404 STUDENT PERSONAL COMMUNICATIONS DEVICES

Sec. 1. DEFINITIONS

"Personal communication device" means:

- A telephone;
- A cell phone, such as a smartphone or flip phone;
- A tablet;
- A smartwatch;
- A radio device;
- A paging device; or

- Any other electronic device capable of telecommunication or digital communication.

The term "personal communication device" does not include an electronic device provided to a student by Richard Milburn Academy.

Education Code 37.082(d).

"School property" means anywhere on a Richard Milburn Academy campus or in a Richard Milburn Academy facility where instruction is provided, including but not limited to: classrooms, hallways, gyms, cafeterias, band halls, and all other extracurricular spaces; outdoor fields, tracks, and other athletic areas; transportation provided by Richard Milburn Academy during the school day; all breezeways, courtyards, playgrounds, and other outdoor areas, specifically including all school parking lots.

The term "school property" excludes off-site education locations where the facility is subject to rules outside the control of Richard Milburn Academy. This includes off-site dual credit college course attendance. While at an off-site educational location, students must follow any communication device requirements in place at that location.

"School day" means the time of day beginning with the first bell of the day and ending with the last day of the day.

Before- or after-school activities as part of Richard Milburn Academy's extracurricular offerings are not part of the school day.

"Use" is defined as a device in possession of a student that is turned on and capable of receiving or sending a communication signal.

"Possession" means being on the person of the student, directly held, in pockets, in a backpack, in a pouch, or otherwise accessible and under the control of the student directly.

Sec. 2. STUDENT USE OF PERSON COMMUNICATION DEVICES

a) *Use Prohibited*

Richard Milburn Academy prohibits students from using a personal communication device while on school property during the school day.

b) *Guidelines for Student Possession of Personal Communication Devices*

Except as identified in this policy, no student is authorized to possess a personal communication device while on school property during the school day.

In the event a student brings a personal communication device to school, the student must bring the device to the designated device-holding area (*e.g.*, main office) when the school day begins and where it must remain for the entirety of the school day. Each campus principal will develop procedures describing how and where students retrieve their devices at the end of the school day.

c) *Confiscation and Disciplinary Consequences*

Each Richard Milburn Academy campus will designate an appropriate secure location in the school where confiscated student personal communication devices will be kept, and a

process to ensure the school can identify which student is the owner of each device that is confiscated.

All Richard Milburn Academy administrators and campus staff are authorized to confiscate a personal communication device used in violation of this policy. If a staff member confiscates a device, the staff member should bring the device to the designated storage location when convenient during the day, and the staff member remains responsible for the device until then.

Disciplinary consequences for students who use a personal communication device while on school property during the school day will be in accordance with the Student Code of Conduct, including any progressive sanctions for ongoing violations.

Richard Milburn Academy may dispose of a confiscated personal communication device in any reasonable manner after having provided the student's parent 90 days' prior notice in writing of Richard Milburn Academy's intent to dispose of the device.

Education Code 37.082.

d) *Exception for Certain Authorized Uses*

Richard Milburn Academy authorizes the use of a personal communication device:

1) Necessary to implement an individualized education program or a plan created under Section 504 of the Rehabilitation Act of 1973, or a similar program or plan.

2) By a student with a documented need based on a directive from a qualified physician. The directive must be provided to the campus principal. A qualified physician shall mean a physician licensed to practice in Texas. The directive must state the conditions under which the student would need access to and use of the personal communication device during the school day on school property. The parent may be asked to sign consent for school staff to contact the physician should the school require additional information to comply with the directive. Use authorized under this provision will be conducted in a manner that minimizes disruption to instruction and the school environment, and may be subject to reasonable limitation on time, place, and manner as determined by the campus principal or designee. Authorization under this section can be revoked if the device is being used in a way that is found to disrupt the learning environment.

3) Necessary to comply with a health or safety requirement imposed by law or as part of Richard Milburn Academy's safety protocols. If the Superintendent determines that a legally required health or safety requirement would authorize or require the use of a personal communication device, the Superintendent shall notify all appropriate staff of the circumstances in which this would be authorized or required. The Board must vote to approve any use under this exception.

Campus principals are authorized to use discretion in permitting student use of personal communication devices in emergency circumstances. Any use permitted under this exception must be reported to the Board during the next regularly scheduled Board meeting.

Education Code 37.082(c).

A student who is provided an exception in accordance with the above remains subject to disciplinary measures if the student uses a personal communication device outside the scope of the documented authorized use.

Sec. 3. <u>No Responsibility for Devices</u>

If a personal communication device is in the possession of Richard Milburn Academy, the school will take appropriate efforts to keep the device stored and free from damage. However, Richard Milburn Academy ***is not responsible for any damaged, lost, or stolen personal communication devices***. Neither parents nor students will be compensated for devices that have been in Richard Milburn Academy's possession in the event those devices are lost or damaged while in possession of the school.
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PG-3.501 STUDENT RECORDS

PART I: EDUCATION RECORDS

Sec. 1. "EDUCATION RECORDS" DEFINED

For the purposes of this policy, the term "education records" means those records, files, documents, and other materials that contain information directly related to a student and are maintained by Richard Milburn Academy or by a person acting for Richard Milburn Academy.

The term "education records" does not include:

1. Records that are created or received by Richard Milburn Academy after an individual is no longer a student in attendance, and that are not directly related to the individual's attendance as a student.
2. Records made by Richard Milburn Academy personnel that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to anyone other than a temporary substitute for the maker of therecord.
3. Records maintained by a law enforcement unit of Richard Milburn Academy that were created by that law enforcement unit for the purpose of law enforcement.
4. Records on a student who is eighteen years of age or older, or who is attending an institution of postsecondary education, that are:
   a. Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;
   b. Made, maintained, or used only in connection with treatment of the student; and
   c. Disclosed only to individuals providing the treatment. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution.
5. Grades on peer-graded papers before they are collected and recorded by a teacher.

20 U.S.C. 1232g; 34 C.F.R. 99.3.

State and federal law safeguard educational records from unauthorized inspection or use. All information relating to student performance, including grades, test results, and disciplinary records are considered confidential educational records. Release of those records are restricted to parents or guardians; school staff members with a legitimate educational interest; various governmental agencies or in response to a subpoena or court order; or a school to which the student transfers or subsequently enrolls. Release to any other person or agency will occur only with prior written consent of the parent or guardian.

Sec. 2. SCREENING RECORDS

The Principal of each Richard Milburn Academy campus shall maintain records of screening for special senses and communication disorders, spinal screening, and assessment for type 2 diabetes for each student in Richard Milburn Academy. Records shall be open for inspection by the state or local health department. The Texas-Mexico Border Health Coordination Office may, directly or through local health departments, enter a school and inspect records relating to assessment for type 2 diabetes. Individual screening records may be transferred among schools in accordance with provisions below concerning "Access by Other Persons." *20 U.S.C. 1232g; Health and Safety Code 36.006, 37.003, 95.004; 25 TAC 37.145(b).*

Sec. 3. IMMUNIZATION RECORDS

Richard Milburn Academy shall maintain an individual immunization record during the period of attendance for each student admitted. The records shall be open for inspection at all reasonable times by the Texas Education Agency or by representatives of local health departments or the Texas Department of State Health Services. Richard Milburn Academy shall cooperate with other districts and schools in transferring students' immunization records between other schools. Specific approval from students, parents, or guardians is not required prior to making such record transfers. *Education Code 38.002*.

Sec. 4. MEDICAL RECORDS

The parent or guardian of a student is entitled to access to the student's medical records maintained by Richard Milburn Academy. On request of a student's parent or guardian, Richard Milburn Academy shall provide a copy of the student's medical records to the parent or guardian. Richard Milburn Academy may not impose a charge that exceeds the amount authorized by Section 552.261 of the Government Code. *Education Code 38.0095*.

a) Privacy Rule for Non-"Education Records"

To the extent Richard Milburn Academy is a covered entity under the Health Insurance Portability and Accountability Act (HIPAA), Richard Milburn Academy must comply with the Privacy Rule, 45 CFR Part 164, with respect to protected health information that is not an education record. *45 C.F.R. 160.103, 164.501.*

Sec. 5. FOOD ALLERGY INFORMATION

Information regarding a child's food allergy, regardless of how it is received by Richard Milburn Academy, shall be retained in the child's student records, but may not be placed in the health record maintained for the child by Richard Milburn Academy.

a) Exceptions

If Richard Milburn Academy receives documentation of a food allergy from a physician, that documentation shall be placed in the health record maintained for the child by Richard Milburn Academy. A registered nurse may enter appropriate notes about a child's possible food allergy in the health record maintained for the child by Richard Milburn Academy, including a notation that the child's student records indicate that a parent has notified Richard Milburn Academy of the child's possible food allergy. *Education Code 25.0022(d)–(f).*

Sec. 6. ASSESSMENT INSTRUMENTS

The results of individual student performance on basic skills assessment instruments or other achievement tests administered by Richard Milburn Academy are confidential and may be made available only to the student, the student's parent or guardian, and to Richard Milburn Academy personnel directly involved with the student's educational program. However, overall student performance data shall be aggregated by ethnicity, sex, grade level, subject area, campus, and school system, and made available to the public, with appropriate interpretations, at regularly scheduled Board meetings. The information may not contain the names of individual students or teachers. *Education Code 39.030(b)*.

Sec. 7. ACADEMIC ACHIEVEMENT RECORDS (GRADES 9–12)

Richard Milburn Academy shall use the academic achievement record (transcript) form adopted by the State Board. This form shall serve as the academic record for each student and shall be maintained permanently by Richard Milburn Academy. Copies of the record shall be made available to students transferring to another district. The information may be provided to the student or to the receiving district or to both. Richard Milburn Academy shall respond promptly to all requests for student records from receiving districts. *19 TAC 74.5.*

Sec. 8. ENROLLMENT RECORDS

If a parent or other person with legal control of a child enrolls the child in Richard Milburn Academy the parent or other person, or district in which the child most recently attended school, shall furnish to Richard Milburn Academy all of the following:

1. The child's birth certificate, or another document suitable as proof of the child's identity as defined by the Commissioner in the Student Attendance Accounting Handbook.
2. A copy of the child's records from the school the child most recently attended if he or she was previously enrolled in a school in Texas or in another state.

Richard Milburn Academy must furnish information under items 1 and 2 not later than the tenth working day after the date Richard Milburn Academy receives a request for the information.

If a parent or other person with legal control of a child under a court order requests that Richard Milburn Academy transfer a child's student records, Richard Milburn Academy shall notify the parent or other person as soon as practicable that the parent or other person may request and receive an unofficial copy of the records for delivery in person to a school in another district.

Education Code 25.002.

PART II: ACCESS, DISCLOSURE, AND AMENDMENT

Sec. 1. DEFINITIONS

a) Attendance

"Attendance" includes, but is not limited to:

1. Attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom; and
2. The period during which a person is working under a work-study program.

b) Disclosure

"Disclosure" means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

c) Parent

"Parent" includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.

d) Personally Identifiable Information

"Personally identifiable information" includes, but is not limited to:

1. The student's name;
2. The name of the student's parent or other family members;
3. The address of the student or student's family;
4. A personal identifier, such as the student's biometric record, defined as a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual (e.g., fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting); social security number; or student number;
5. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;
6. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the Richard Milburn Academy community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
7. Information requested by a person who Richard Milburn Academy reasonably

believes knows the identity of the student to whom the education record relates.

e) Record

"Record" means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audiotape, film, microfilm, and microfiche.

f) Authorized Representative

"Authorized representative" means any entity or individual designated by a state or local educational authority or an agency headed by an official listed in 34 C.F.R. 99.31(a)(3) to conduct—with respect to federal- or state-supported education programs—any audit, evaluation, or any compliance or enforcement activity in connection with federal legal requirements that relate to these programs.

g) Education Program

"Education program" means any program that is principally engaged in the provision of education, including but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education, and adult education, and any program that is administered by an educational agency or institution.

34 C.F.R. 99.3.

h) Signed and Dated Written Consent

"Signed and dated written consent" may include a record and signature in electronic form that:

1. Identifies and authenticates a particular person as the source of the electronic consent; and
2. Indicates such person's approval of the information contained in the electronic consent.

34 C.F.R. 99.30(d).

Sec. 2. ACCESS BY PARENTS

Access to the education records of a student who is or has been in attendance at Richard Milburn Academy shall be granted to the parent of the student who is a minor or who is a dependent for tax purposes.

34 C.F.R. 99.10, .31(a)(8).

Richard Milburn Academy shall presume that a parent has authority to inspect and review the student's records unless it has been provided with evidence that there is a court order, state statute, or legally binding document that specifically revokes these rights. A court may order the custodian of records to delete all references in a child's records to the place of residence of either party appointed as conservator before their release to another party appointed as conservator.

34 C.F.R. 99.4; Family Code 153.012, .073.

Sec. 3. ACCESS BY STUDENT

Whenever a student has attained 18 years of age or is attending an institution of postsecondary education, the rights accorded to, and consent required of, parents transfer from the parents to the student. Nothing in this section prevents Richard Milburn Academy from disclosing education records, or personally identifiable information from education records, to a parent without prior written consent of an eligible student if the disclosure meets the conditions in 34 C.F.R. 99.31(a), including if the student is a dependent for tax purposes or in the case of a health or safety emergency. *34 C.F.R. 99.5*.

If material in the education record of a student includes information on another student, only the portion of the material relating to the student whose records were requested may be inspected and reviewed. *34 C.F.R. 99.12(a).*

Sec. 4. ACCESS BY OTHER PERSONS

Personally identifiable information in education records shall not be released without the written consent of the student's parents, except to the following:

a) School Officials

School officials, including teachers, who have legitimate educational interests are authorized to review personally identifiable information in education records. An administrator, nurse, or teacher is entitled to access a student's medical records maintained by Richard Milburn Academy for reasons determined in Richard Milburn Academy policy.

A contractor, consultant, volunteer, or other party to whom Richard Milburn Academy has outsourced institutional services or functions may be considered a school official under this paragraph provided that the outside party:

1. Performs an institutional service or function for which Richard Milburn Academy would otherwise use employees;
2. Is under the direct control of Richard Milburn Academy with respect to the use and maintenance of education records; and
3. Is subject to the requirements of 34 CFR 99.33(a) governing the use and redisclosure of personally identifiable information from education records.

Richard Milburn Academy must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests.

34 C.F.R. 99.31, .36; Education Code 38.009.

b) Officials of Other Schools

Officials of other schools or school systems in which the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer, provided that Richard Milburn Academy either:

1. Includes in its policies a statement that notifies the parent or student that it forwards education records on request of the other school to such officials; or
2. Makes a reasonable attempt to notify the parent (unless the record transfer is initiated by the parent).

In either case, Richard Milburn Academy shall furnish a copy of the transferred records to the parent if requested and shall give the parent an opportunity for a hearing to challenge the content of the record.
34 C.F.R. 99.34.

c) Authorized Governmental Representatives

Authorized representatives of the officials or agencies headed by the Comptroller General of the United States, the Attorney General of the United States, the Secretary of Education, or state and local educational authorities who require access to student or other records necessary in connection with the audit and evaluation of federal- or state-supported education programs or in connection with the enforcement of or compliance with federal legal requirements that relate to such programs. *34 C.F.R. 99.35*.

Richard Milburn Academy may not refuse to report information concerning a student holding an F, J, or M visa on the basis of the Family Educational Rights and Privacy Act ("FERPA") and any regulation implementing FERPA. Richard Milburn Academy is authorized and required to report information that would ordinarily be protected by FERPA only to the extent required by 8 U.S.C. 1372, 8 CFR 214.3, or any corresponding regulation. *8 U.S.C. 1372(c)(2); 8 C.F.R. 214.1(h).*

d) Financial Aid Personnel

Personnel involved with a student's application for, or receipt of, financial aid.

e) Juvenile Justice Officials

State and local officials to whom such information is specifically allowed to be reported or disclosed by state statute if:

1. The allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve the student whose records are released; and
2. The officials and authorities to whom such information is disclosed certify in writing to Richard Milburn Academy that the information will not be disclosed to any other party except as provided under state law without the prior written consent of the parent or the student.

The Superintendent or designee shall disclose information contained in a student's educational records to a juvenile service provider as required by Family Code 58.0051.

Education Code 37.084(a).

f) Organizations Conducting Surveys

Organizations conducting studies for, or on behalf of, Richard Milburn Academy for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction. Such studies must be conducted so that personal identification of students and their parents will not be revealed to persons other than authorized personnel of the organizations conducting the studies who have legitimate interests in the information. Such information must be destroyed when no longer needed for the original purposes of the studies.

Richard Milburn Academy must enter into a written agreement with the organization that:

1. Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;
2. Requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement;
3. Requires the organization to conduct the study in a manner that does not permit personal identification of parents and students, as defined in this part, by anyone other than representatives of the organization with legitimate interests; and
4. Requires the organization to destroy or return to Richard Milburn Academy all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be returned or destroyed.

If Richard Milburn Academy enters into an agreement with an organization conducting a study, it may re-disclose personally identifiable information from education records on behalf of educational agencies and institutions that disclosed the information to Richard Milburn Academy in accordance with the requirements of 34 C.F.R. 99.33(b).

Richard Milburn Academy is not required to initiate a study or agree with or endorse the conclusions or results of the study.

g) Accrediting Organizations

Accrediting organizations that require the information for purposes of accreditation.

h) Health & Safety Emergency

Appropriate persons, including the student's parents, who, in an emergency, must have such information in order to protect the health or safety of the student or other person. In making a determination, Richard Milburn Academy may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If Richard Milburn Academy determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. *34 C.F.R. 99.36*.

i) Secretary of Agriculture

The Secretary of Agriculture, or authorized representative from the Food and Nutrition

Service, for the purposes of conducting program monitoring, evaluations, and performance measurements of schools receiving funding or providing benefits of programs authorized under the National School Lunch Act or the Child Nutrition Act. *20 U.S.C. 1232g(b)(1)(K).*

j) State or Local Child Welfare Agency

An agency caseworker or other representative of a state or local child welfare agency who has the right to access a student's case plan when the agency is legally responsible, in accordance with state law, for the care and protection of the student. *20 U.S.C. 1232g(b)(1)(L).*

k) Directory Information

Any person requesting directory information after Richard Milburn Academy has given public notice of that definition. *34 C.F.R. 99.37*.

l) Written Consent

The parent shall provide a signed and dated written consent before Richard Milburn Academy discloses personally identifiable information from a student's education records to any individual, agency, or organization other than the parent, the student, or those listed above. Such consent shall specify records to be released, the reason for such release, and to whom the records are to be released. *34 C.F.R. 99.30*.

Sec. 5. INFORMATION COLLECTION

a) ***DOE Funded Surveys***

No student shall be required, as part of any program funded in whole or in part by the U.S. Department of Education (DOE), to submit to a survey, analysis, or evaluation that reveals information concerning the following topics without the prior consent of the student (if the student is an adult or emancipated minor), or, in the case of an unemancipated minor, without the prior written consent of the parent:

1. Political affiliations or beliefs of the student or the student's parents.
2. Mental and psychological problems of the student or the student's family.
3. Sex behavior and attitudes.
4. Illegal, anti-social, self-incriminating, and demeaning behavior.
5. Critical appraisals of other individuals with whom students have close family relationships.
6. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.
7. Religious practices, affiliations, or beliefs of the student or student's parent.
8. Income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program.

20 U.S.C. 1232h(b).

b) ***Information Collection Funded by Other Sources***

Except as provided by 20 U.S.C. 1232h(a) or (b), as a condition of receiving funds from

programs funded in whole or in part by the U.S. DOE Richard Milburn Academy shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), and provide for parent notification in accordance with 20 U.S.C. 1232(c)(2). *20 U.S.C. 1232h(c)(1)–(4).*

Sec. 6. SUBPOENAED RECORDS

Richard Milburn Academy shall release student records to an entity or persons designated in a subpoena. Richard Milburn Academy shall not disclose to any person the existence or contents of the subpoena if a court orders Richard Milburn Academy to refrain from such disclosure. Unless the court or other issuing agency orders Richard Milburn Academy to refrain from such disclosure or the order is an ex parte court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331, Richard Milburn Academy shall make a reasonable effort to notify the parents and the student of all such subpoenas in advance of compliance, except when a parent is a party to a court proceeding involving child abuse and neglect or dependency matters, and the order is issued in the context of that proceeding. *20 U.S.C. 1232g(b)(1)(J), (b)(2)(B); 34 C.F.R. 99.31(a)(9)*.

Sec. 7. SEX OFFENDERS

Richard Milburn Academy may disclose personally identifiable information without consent if the disclosure concerns sex offenders and other individuals required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to Richard Milburn Academy under 42 U.S.C. 14071 and applicable federal guidelines. *34 C.F.R. 99.31(a)(16).*

Sec. 8. REQUEST PROCEDURE

Upon request of a properly qualified individual, access to a student's education record shall be granted within a reasonable period of time, not to exceed 45 days. Richard Milburn Academy shall respond to reasonable requests for explanations and interpretations of the records. *34 C.F.R. 99.10.*

Sec. 9. DESTRUCTION OF RECORDS

Richard Milburn Academy shall not destroy any education records if there is an outstanding request to inspect and review the records. *34 C.F.R. 99.10(e).*

Sec. 10. DE-IDENTIFIED RECORDS

Richard Milburn Academy, or a party that has received education records or information from education records, may release the records or information without the parent's written consent after the removal of all personally identifiable information provided that Richard Milburn Academy or other party has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information.

a) Education Research

Richard Milburn Academy, or a party that has received education records or information from education records, may release de-identified student level data from education records for the purpose of education research by attaching a code to each record that may allow the recipient to match information received from the same source, provided that:

1. Richard Milburn Academy or other party that releases de-identified data under this section does not disclose any information about how it generates and assigns a record code, or that would allow a recipient to identify a student based on a record code;
2. The record code is used for no purpose other than identifying a de-identified record for purposes of education research and cannot be used to ascertain personally identifiable information about a student; and
3. The record code is not based on a student's social security number or other personal information.

Sec. 11. AUTHENTICATING REQUESTORS' IDENTITIES

Richard Milburn Academy must use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom Richard Milburn Academy discloses personally identifiable information from education records. *34 C.F.R. 99.31(b)–(c).*

Sec. 12. TRANSFER NOT PERMITTED

Personal information from student education records shall be transferred to a third partyonly on the condition that such party will not permit any other party to have access to such information without the written consent of the student's parent. If a third party permits access to information in violation of this policy, Richard Milburn Academy shall not permit access to information from education records to that third party for a period of not less than five years. *20 U.S.C. 1232g(b)(4)(B); 34 C.F.R. 99.33(a)(1).*

Richard Milburn Academy shall inform a party to whom a disclosure is made of the requirements of 34 CFR 99.33, unless the disclosure is made pursuant to a court order, lawfully issued subpoena, or litigation; the disclosed information is directory information; the disclosure concerns sex offenders; or the disclosure is made to a parent of a student who is not an eligible student or to a student. *34 C.F.R. 99.33(c)–(d).*

Richard Milburn Academy may disclose personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of Richard Milburn Academy if:

1. The disclosures meet the requirements of 34 CFR 99.31; and
2. Richard Milburn Academy has complied with the requirements of 34 CFR 99.32(b) regarding the record of disclosure; or a state or local educational authority or federal official or agency listed requesting information through a subpoena or ex parte order has complied with the requirements of 34 CFR 99.32(b)(2).

34 C.F.R. 99.33(b).

Sec. 13. RECORD OF ACCESS TO STUDENT RECORDS

Each campus shall maintain a record, kept with the education record of each student, that indicates all individuals, agencies, or organizations that have requested or obtained access to a student's education records, as well as the names of state and local educational authorities and federal officials and agencies listed in 34 CFR 99.31(a)(3) that may make further disclosures of personally identifiable information from the student's education records without consent. Richard Milburn Academy must obtain a copy of the record of further disclosures maintained by the named authorities, officials, and agencies under 34 CFR 99.32(b)(2) and make it available in response to a parent's request to review the record.

Richard Milburn Academy must record the following information when it discloses personally identifiable information from education records under the health or safety emergency exception (see "Health & Safety Emergency," above):

1. The articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and
2. The parties to whom Richard Milburn Academy disclosed the information.

34 C.F.R. 99.32.

The records shall include at least the name of the person or agency that made the request and the legitimate interest the person or agency had in the information. The record will be maintained as long as Richard Milburn Academy maintains the student's education record. The record of access shall be available only to parents, school officials responsible for custody of the records, and those state, local, and federal officials authorized to audit the operation of the system. *20 U.S.C. 1232g(b)(4)(A).*

The record shall not include requests for access by, or access granted to, parents of the student or officials of Richard Milburn Academy, requests accompanied by prior written consent of the parent, requests for directory information, or a party seeking or receiving records in accordance with a subpoena or *ex parte* order. *34 C.F.R. 99.32(d)*.

Sec. 14. RIGHT TO AMEND RECORDS

The parent of a student whose records are covered by this policy may ask Richard Milburn Academy to amend the student's record if the parent believes it contains information that is inaccurate, misleading, or in violation of the student's right of privacy or other rights. Richard Milburn Academy decides not to amend the education records requested, it shall inform the parent of its decision and his or her right to a hearing to challenge the content of the student's education records.

If Richard Milburn Academy decides to amend the records as a result of the hearing, it shall inform the parent in writing. If, as a result of the hearing, Richard Milburn Academy decides not to amend the records, it shall inform the parent of the right to place a statement in the records commenting on the contested information and/or stating why the parent disagrees with

the decision of Richard Milburn Academy. Any explanation shall be maintained with the contested part of the record for as long as the record is maintained and shall be disclosed whenever the contested portion of the record is disclosed. *34 C.F.R. 99.20–.21*.

Sec. 15. FEES FOR COPIES

No fee shall be charged to search for or to retrieve the education records of a student. A fee may be charged for copies of education records that are made for the parents or students under this policy provided that the fee does not effectively prevent them from exercising their right to inspect and review those records. Hardship cases shall be dealt with on an individual basis. *20 U.S.C. 1232g; 34 C.F.R. 99.11; Education Code 26.012.*

Sec. 16. RECORDS OF STUDENTS WITH DISABILITIES

Richard Milburn Academy shall permit parents to inspect and review education records collected, maintained, or used for purposes of identifying, evaluating, placing, or educating students with disabilities. *34 C.F.R. 300.613(a).*

a) Access Rights

In addition to policies applicable to all student records, the following guidelines shall apply when parents of a student with disabilities request to review or inspect Richard Milburn Academy records relating to the education of their child:

1. Parents may request that a representative inspect and review the records.
2. Richard Milburn Academy shall comply with a request without unnecessary delay and before any meeting regarding an individualized education program ("IE"P) or hearing relating to the identification, evaluation, or placement of the child, and in no case longer than 45 days after the request.
3. Richard Milburn Academy shall keep a record of persons obtaining access to these student records (except access by parents and authorized employees), including name, date of access, and the purpose for which the person is authorized to use the records.

34 CFR 300.613, .614.

b) List of Types and Locations of Information

Richard Milburn Academy shall provide parents on request a list of types and locations of education records. *34 C.F.R. 300.616*.

c) Parental Consent

Parental consent must be obtained before personally identifiable information is used for any purpose other than meeting a requirement under the Individuals with Disabilities Education Act or disclosed to anyone other than officials of agencies collecting or using this information. Richard Milburn Academy may not release information from these records without parental consent except as provided in FERPA. *34 C.F.R. 300.622*.

d) Confidentiality

Richard Milburn Academy shall protect the confidentiality of personally identifiable information in collection, storage, disclosure, and destruction of records. One official in Richard Milburn Academy shall assume responsibility for ensuring confidentiality of personally identifiable information. All persons collecting or using this information shall receive training or instruction concerning the legal requirements involved in handling these records. Richard Milburn Academy shall maintain for public inspection a current listing of the names and positions of employees who may have access to this information. *34 C.F.R. 300.623*.

e) Destruction of Information

Richard Milburn Academy shall inform parents when personally identifiable information collected, maintained, or used to provide special education and related services is no longer needed to provide educational services to the student. Such information shall be destroyed at the request of the parents.

A permanent record of the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

34 C.F.R. 300.624.

Sec. 17. ANNUAL NOTIFICATION OF RIGHTS

Richard Milburn Academy shall give parents of students in attendance and eligible students in attendance annual notification of their rights under FERPA. For purposes of FERPA and student information confidentiality under this policy, a student is considered "in attendance" from the time Richard Milburn Academy receives a completed Lottery Information Form or completed Admissions Application packet from the student or, otherwise, from the time the student first attends classes at Richard Milburn Academy and is enrolled, until the student withdraws or graduates from Richard Milburn Academy.

The notice must inform parents or eligible students that they have the right to:

1. Inspect and review the student's education records;
2. Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;
3. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the Act and 34 CFR 99.31 authorize disclosure without consent; and
4. File with the United States Department of Education a complaint under 34 CFR 99.63 and 99.64 concerning alleged failures by Richard Milburn Academy to comply with the requirements of the Act and 34 CFR part 99.

The notice must include all of the following:

1. The procedure for exercising the right to inspect and review education records.
2. The procedure for requesting amendment of records under 34 CFR 99.20.
3. If Richard Milburn Academy has a policy of disclosing education records under 34 CFR 99.31(a)(1), a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

Richard Milburn Academy may provide this notice by any means that are reasonably likely to inform the parents or eligible students of their rights. Richard Milburn Academy shall effectively notify parents who are disabled and parents of students who have a primary or home language other than English.

20 U.S.C. 1232g(e); 34 C.F.R. 99.7.

Sec. 18. CUSTODIAN OF RECORDS

The Superintendent or designee is designated as the custodian of all student records. The Principal of each campus is designated as an agent of the Superintendent or designee for the purposes of the receipt of requests concerning the disclosure of student records.

Sec. 19. PARENTAL RIGHTS AND STUDENT PRIVACY LOCAL POLICY

As a condition of receiving funds under any applicable program, Richard Milburn Academy adopts the following policies, pursuant to 20 U.S.C. 1232h(c)(1):

1. Parents have a right to inspect any survey created by a third party before the surveyis administered or distributed by Richard Milburn Academy to the student. Parents should submit such a request to the Principal, and shall be provided an opportunity to inspect the survey within a reasonable period of time as determined by Principal. Upon a parent's request to inspect a survey, the parent's child shall not participate in the survey until the parent has had a reasonable opportunity to inspect the survey, as determined by the Principal.
2. In the event a survey contains the items listed above, and is administered or distributed to students, Richard Milburn Academy shall comply with FERPA and other applicable law to protect student privacy.
3. Parents have a right to inspect all teaching materials, instructional materials, and other teaching aids used in the classroom of their child, including while participating in virtual or remote learning. Parents should submit such a request to the Principal. The Principal shall provide reasonable access to parents within a reasonable period of time, as determined by the Principal. *Education Code 26.006.*
4. Richard Milburn Academy may administer physical examinations or other screenings to students as required and/or authorized by state or federal law and in accordance with other applicable policy.
5. Richard Milburn Academy shall not collect, disclose, or use a student's personal information for the purpose of marketing or selling that information to third parties. This policy does not apply to or restrict the use of personal information collected from students for the purpose of developing, evaluating, or providing educational products or services offered by Richard Milburn Academy, for or to students or educational institutions, such as recruiters, book clubs, curriculum and instructional materials used by schools, sale by students of products or services to raise funds for school-related or

education-related activities, or student recognition programs, or as otherwise required by law. This policy is also subject to state and federal public information laws and FERPA, that makes some student personal information, defined above as Directory Information, public.

6. Parents have a right to inspect any instrument used in collection of personal information, described above, before the instrument is administered to the student. Parents should submit such a request to the Principal. The Principal shall provide reasonable access to parents within a reasonable period of time, as determined by the Principal. Upon a parent's request to inspect such an instrument, the parent's child shall not participate until the parent has had a reasonable opportunity to inspect the instrument, as determined by the Principal.

The Superintendent or designee shall ensure that parents are provided reasonable notice of the adoption or continued use of these policies. Such notice shall be provided directly to the parents of the students in attendance at Richard Milburn Academy. At a minimum, Richard Milburn Academy shall:

1. Provide notice at least annually, at the beginning of the school year and within a reasonable time after any substantive change in the policies; and
2. Offer an opportunity for the parent to opt the student out of participation in an activity described above.

Sec. 20. NOTICE OF SCHEDULED ACTIVITIES

The Superintendent or designee shall ensure that Richard Milburn Academy directly notifies parents of students, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when activities, described below, are scheduled or expected to be scheduled. The following activities require notification under this section:

1. Activities involving the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information.
2. The administration of any survey containing one or more items describedabove.
3. Any nonemergency, invasive physical examination or screening that is required as a condition of attendance, administered and scheduled by Richard Milburn Academy in advance, and not necessary to protect the immediate health and safety of the student or of other students.

PART III: DIRECTORY INFORMATION

Certain information about students is considered "directory information" and will be released to anyone who follows procedures for requesting it unless the parent, or eligible student objects in writing to its release within ten calendar days of receiving notice of FERPA rights. A parent or eligible student may also choose to opt out of the release of directory information at any time during the school year. At any time after restricting the release of directory information, a parent or eligible student may in writing authorize Richard Milburn Academy to release directory information. *34 C.F.R. 99.37.*

Sec. 1. DEFINITION

a) School-Related Purposes

Richard Milburn Academy has designated the following categories of information as directory information for purposes of disclosure relating to school-sponsored/school-affiliated purposes:

1. student's name;
2. address;
3. telephone listing;
4. electronic mail address;
5. photograph (including video image);
6. date and place of birth;
7. major field of study;
8. degrees, honors, and awards received;
9. dates of attendance;
10. grade level;
11. most recent educational institution attended;
12. participation in officially recognized activities and sports; and
13. weight and height of members of athletic teams.

Directory information does not include a student's:

1. Social security number; or
2. Student identification number, unless the student identification number, user identification number, or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number, password, or other factor known or possessed only by the authorized user.

School-sponsored/school-affiliated purposes are those events or activities that Richard Milburn Academy conducts and/or sponsors to support the educational mission of Richard Milburn Academy. Examples include, but are not limited to:

1. extracurricular programs or events (e.g., school plays, concerts, athletic events, graduation ceremony);
2. publications (e.g., newsletters, yearbook, etc.);
3. honor roll and other student recognition lists; and
4. marketing materials of Richard Milburn Academy (e.g., print media, website, videos, newspaper, etc.).

b) Military Recruiters and Institutions of Higher Education

Richard Milburn Academy has designated the following categories of information as directory information for the purpose of disclosure to military recruiters and institutions of higher education, but only for secondary students:

1. student's name;
2. address;
3. e-mail address; and

4. telephone listing.

c) Law Enforcement Authorities

Richard Milburn Academy has designated the following categories of information as directory information for purposes of responding to requests for general student information made by law enforcement officials and authorities:

1. student's name;
2. address; and
3. telephone listing.

Richard Milburn Academy will comply with a request by a military recruiter or an institution of higher education for secondary students' names, addresses, and telephone listings unless a parent or eligible student has advised Richard Milburn Academy in writing not to release a student's information without prior written consent.

d) Release of Directory Information

Richard Milburn Academy shall not release directory information except for the purposes indicated above, namely:

1. disclosure relating to school-sponsored/school-affiliated purposes;
2. disclosure to military recruiters and institutions of higher education, but only for secondary students; and
3. disclosure to law enforcement officials and authorities.

As such, there is no directory information available to any persons not meeting the above requirements and purposes.

Sec. 2. IN CLASS

A parent or eligible student may not use the right of refusal to opt out of directory information disclosures to prevent Richard Milburn Academy from disclosing or requiring a student to disclose the student's name, identifier, or institutional e-mail address in a class in which the student is enrolled.

Sec. 3. FORMER STUDENTS

Richard Milburn Academy may disclose directory information about former students without satisfying the public notice conditions above. However, Richard Milburn Academy must continue to honor any valid request to opt out of the disclosure of directory information made while a student was in attendance unless the student rescinds the opt-out request.

Sec. 4. CONFIRMATION OF IDENTITY OR RECORDS

Richard Milburn Academy may not disclose or confirm directory information without meeting the written consent requirements in 34 CFR 99.30 if a student's social security number or other non- directory information is used alone or combined with other data elements to identify or help identify the student or the student's records.

34 C.F.R. 99.3, .37.

PART IV: INFORMATION FROM LAW ENFORCEMENT

Sec. 1. ORAL NOTICE OF ARREST OR REFERRAL

Upon receipt of oral notice from a law enforcement agency that it has arrested a student or referred a student to the juvenile board for a specified offense, the Superintendent shall promptly notify all instructional and support personnel who have responsibility for supervising the student. All personnel shall keep the information received confidential.

Sec. 2. WRITTEN NOTICE OF ARREST OR REFERRAL

Upon subsequent receipt of confidential, written notice of the arrest or referral, the Superintendent or designee may send the information in the confidential notice to a Richard Milburn Academy employee having direct supervisory responsibility over the student if the Superintendent or designee determines that the employee needs the information for educational purposes or for the protection of the person informed or others.

Sec. 3. ORAL NOTICE OF CONVICTION OR ADJUDICATION

Upon receipt of oral notice from a prosecuting attorney of a student's conviction, deferred prosecution, or adjudication of a specified offense, including a statement as to whether the student is required to register as a sex offender, the Superintendent shall, within 24 hours of receiving the notice, notify all instructional and support personnel who have regular contact with the student.

Sec. 4. NOTICE OF TRANSFER OR REENROLLMENT

Upon receipt of notice from a parole, probation, or community supervision office having jurisdiction over a student that a student has transferred or reenrolled, the Superintendent shall, within 24 hours of receiving the notice, notify all instructional and support personnel who have regular contact with the student.

A person who receives information described above shall not disclose it except as specifically authorized by Code of Criminal Procedure 15.27.

Required oral or written notice must include all pertinent details of the offense or conduct, including details of any assaultive behavior or other violence; weapons used in the commission of the offense or conduct; or weapons possessed during the commission of the offense or conduct.

Information received by Richard Milburn Academy under this provision shall not be attached to the permanent academic file of the student who is the subject of the report. Richard Milburn Academy shall destroy the information at the end of the academic year in which the report was filed.

Sec. 5. DUTY TO FLAG RECORDS

Upon receipt of notification from a law enforcement agency or the missing children and missing persons information clearinghouse that a child under 11 years of age who attended or who is enrolled in Richard Milburn Academy is missing, Richard Milburn Academy shall flag the child's records and maintain the records in its possession so that on receipt of a request regarding the child, Richard Milburn Academy will be able to notify law enforcement or the missing children and missing persons information clearinghouse that a request for a flagged record has been made.

a) Request in Person

When a request for a flagged record is made in person, Richard Milburn Academy may not advise the requesting party that the request concerns a missing child and shall:

1. Require the person requesting the flagged record to complete a form stating the person's name, address, telephone number, and relationship to the child for whom a request is made, and the name, address, and birth date of thechild;
2. Obtain a copy of the requesting party's driver's license or other photographic identification, if possible;
3. If the request is for a birth certificate, inform the requesting party that a copy of a certificate will be sent by mail; and
4. Immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and include a physical description of the requesting party, the identity and address of the requesting party, and a copy of the requesting party's driver's license or other photographic identification.

After providing the information listed above, Richard Milburn Academy shall mail a copyof the requested record to the requesting party on or after the 21st day after the date of the request.

b) Request in Writing

When a request for a flagged record is made in writing, Richard Milburn Academy may not advise the requesting party that the request concerns a missing child and shall immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and provide to the law enforcement agency a copy of the written request. After providing the notification, Richard Milburn Academy shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

c) Removal of Flag

On the return of a missing child under 11 years of age, the law enforcement agency shall notify each school that has maintained flagged records for the child that the child is no longer missing. On receipt of this notification, Richard Milburn Academy shall remove the flag from the records.

A school that has reason to believe that a missing child has been recovered may request confirmation that the missing child has been recovered from the appropriate law enforcement agency or the missing children and missing persons information clearing-house. If a response is not received after the 45th day after the date of the request for confirmation, Richard

Milburn Academy may remove the flag from the record and shall inform the law enforcement agency or the missing children and missing persons information clearing-house that the flag has been removed. *Code of Criminal Procedure 63.020–.022*.

PG-3.502 ELECTRONIC STUDENT RECORDS SYSTEM

Richard Milburn Academy shall participate in an electronic student records system that satisfies standards approved by the Commissioner.

The electronic student records system must permit an authorized state or Richard Milburn Academy official to electronically transfer to and from an educational institution in which the student is enrolled and retrieve student transcripts, including information concerning a student's:

1. Course or grade completion;
2. Teachers of record;
3. Assessment instrument results;
4. Receipt of special education services, including placement in a special education program and the individualized education program developed; and
5. Personal graduation plan as described by Education Code 28.0212 or 28.02121, as applicable.

Any person involved in the transfer and retrieval of student information is subject to any state or federal law governing the release of or providing access to any confidential information to the same extent as the educational institution from which the data is collected. A person may not release or distribute the data to any other person in a form that contains confidential information.

Education Code 7.010.

PG-3.503 STUDENT FEES

Sec. 1. TUITION AND FEES

Richard Milburn Academy shall not charge tuition and shall not charge a fee except:

1. Richard Milburn Academy may charge a fee listed in Education Code 11.158(a) and shall not charge any fee prohibited under Education Code 11.158(b);
2. If authorized under 19 TAC 100.1201(6) of this title, Richard Milburn Academy may charge tuition for certain prekindergarten classes in compliance with Education Code 29.1531 and 29.1532; and
3. Richard Milburn Academy shall accept tuition for students holding certain student visas as described in Education Code 25.0031(a).

19 TAC 100.1061(b).

Sec. 2. AUTHORIZED FEES

Richard Milburn Academy may require payment of:

1. Fees for materials used in any program in which the resultant product is in excess of minimum requirements and, at the student's option, becomes the personal property of the student. Fees may not exceed the cost of materials.
2. Membership dues in student organizations or clubs, and admission fees or charges for attending extracurricular activities when membership or attendance is voluntary.
3. Security deposits for the return of materials, supplies, or equipment.
4. Fees for personal physical education and athletic equipment and apparel. However, any student may provide his or her own equipment or apparel if it meets reasonable requirements and standards relating to health and safety established by the Board.
5. Fees for items of personal use or products that a student may purchase at the student's option, such as student publications, class rings, annuals, and graduation announcements.
6. Fees specifically permitted by any other statute.
7. Fees for an authorized, voluntary student health and accident benefit plan.
8. A reasonable fee, not to exceed the actual annual maintenance cost, for the use of musical instruments and uniforms owned or rented by Richard Milburn Academy.
9. Fees for items of personal apparel that become the property of the student and that are used in extracurricular activities.
10. Parking fees and fees for identification cards.
11. Fees for driver training courses, provided that such fees shall not exceed the actual Richard Milburn Academy cost per student in such programs for the current school year.
12. Fees for courses offered for credit that require the use of facilities not available on the school premises or the employment of an educator who is not part of the school's regular staff, if participation in the course is at the student's option.
13. Fees for courses offered during summer school, except that the Board may charge a fee for a course required for graduation only if the course is also offered without a fee during the regular school term.
14. A reasonable fee for transportation of a student who lives within two miles of the school the student attends to and from that school, except that the Board may not charge a fee for transportation for which Richard Milburn Academy receives funds under Education Code 48.151(d).
15. A reasonable fee, not to exceed $50, for costs associated with an educational program offered outside of regular school hours through which a student who was absent from class receives instruction voluntarily for the purpose of making up the missed instruction and meeting the level of attendance required under Education Code 25.092.
16. If Richard Milburn Academy does not receive any funds under Section 48.151 and does not participate in a county transportation system for which an allotment is provided under Section 48.151(i), a reasonable fee for the transportation of a student to and from the school the student attends.
17. A fee for enrollment in an electronic course provided through the Texas Virtual School Network (TxVSN) in accordance with Education Code 30A.155.

Education Code 11.158, 30A.155.

Sec. 3. PROHIBITED FEES

Richard Milburn Academy may not charge fees for:

1. Instructional materials, workbooks, laboratory supplies, or other supplies necessary for participation in any instructional course except as authorized under the Education Code.
2. Field trips required as part of a basic educational program or course.
3. Any specific form of dress necessary for any required educational program ordiplomas.
4. Instructional costs for necessary school personnel employed in any course or educational program required for graduation.
5. Library materials required to be used for any educational course or program. However, fines may be assessed for lost, damaged, or overdue materials.
6. Admission to any activity the student is required to attend as a prerequisite to graduation.
7. Admission or examination in any required educational course or program.
8. Lockers.

Education Code 11.158(b).

Sec. 4. PERSONAL SUPPLIES

Students may be required to furnish personal or consumable items, including pencils, paper, pens, erasers, and notebooks. Students may be required to furnish school uniforms, subject to the provisions of Education Code 11.162 regarding educationally disadvantaged students. *Education Code 11.158(c)*

Sec. 5. WAIVER OF FEES

Richard Milburn Academy shall adopt reasonable procedures for waiving a deposit or fee if a student or the student's parent or guardian is unable to pay it. This policy shall be posted in a central location in each school facility, in the school policy manual, and in the student handbook. *Education Code 11.158(f)*.

Sec. 6. POST-SECONDARY INSTRUCTIONAL PROGRAMS

The Board may charge reasonable fees for goods and services provided in connection with any postsecondary instructional program, including career and technology, adult, veterans, or continuing education, community service, evening school, and high school equivalency programs. *Education Code 11.158(b)-(c), (e)-(g)*.

Sec. 7. DISSEMINATION OF FEE SCHEDULE

The Superintendent or designee shall ensure that the Student Fee Schedule is provided, as appropriate, to all students and parents.

PG-3.504 SCHOOL SPONSORED PUBLICATIONS

Sec. 1. SCHOOL-SPONSORED PUBLICATIONS

All publications edited, printed, or distributed in the name of or within the Richard Milburn Academy system shall be under the control of the school administration and the Board.

All school-sponsored publications approved by Richard Milburn Academy that contain student work and/or are published by students at an individual campus shall be part of the instructional program, under the supervision of a faculty sponsor, and shall be carefully edited to reflect the ideals and expectations of the citizens of the school's geographical area for their schools. The Principal shall be responsible for all matters pertaining to the organization, issuance, and sale of such publications and any other publication procedure, subject to the Superintendent's approval.

Expression in a school-sponsored publication is prohibited when the material:

1. Advertises or promotes any product or service not permitted for minors by law;
2. Associates Richard Milburn Academy with any position other than neutrality on matters of political controversy;
3. Does not meet the standards of the educators who supervise the production of the publication;
4. Encourages students to commit illegal acts;
5. Encourages students to violate the Richard Milburn Academy Student Code of Conduct;
6. Expresses or advocates sexual, racial, or religious harassment or violence or prejudice;
7. Impinges on the rights of other students;
8. Invades the privacy of others;
9. Is distributed or displayed in violation of time, place, and manner regulations;
10. Is inappropriate for the level of maturity of the readers;
11. Is libelous or slanderous;
12. Is obscene to minors;
13. Is vulgar or profane;
14. Might reasonably be perceived to advocate drug or alcohol use, irresponsible sex, or conduct otherwise inconsistent with the shared values of a civilized social order;
15. Substantially disrupts the orderly operation of school or school activities; or
16. Would substantially interfere with the work of Richard Milburn Academy.

Expression in official school publications is subject to editorial control by Richard Milburn Academy over style and content so long as Richard Milburn Academy's actions are reasonably related to legitimate educational/pedagogical concerns. These may include, but are not limited to:

1. Assuring that participants learn whatever lessons the activity is designed to teach;
2. Assuring that readers or listeners are not exposed to material that may be inappropriate for their level of maturity;
3. Assuring that the views of the individual speaker are not erroneously attributed to Richard Milburn Academy;
4. Assuring that Richard Milburn Academy is not associated with any position other than neutrality on matters of political controversy;
5. Assuring that student speech cannot reasonably be perceived to advocate conduct otherwise inconsistent with the shared values of a civilized social order; and
6. Assuring that Richard Milburn Academy is not associated with expression that is, for example, ungrammatical, poorly written, inadequately researched, biased or prejudiced, vulgar or profane, or unsuitable for immature audiences.

Sec. 2. ADVERTISING

Advertising in individual school publications may be accepted from bona fide business firms,

subject to the approval of professional employees exercising editorial supervision over the publications. Advertising deemed inappropriate for student readers or that advertises products presenting a health hazard, such as alcohol or tobacco products, shall not be accepted.

Sec. 3. COMPLAINTS

Students who have a complaint regarding the procedures or a professional decision affecting the content or style of a school-sponsored publication shall present that complaint in accordance with Board Policy PG-3.509 (Parent and Student Complaints and Grievances).

PG-3.505 DISTRIBUTION OF NON-SCHOOL LITERATURE

Sec. 1. DISTRIBUTION OF NON-SCHOOL LITERATURE

Written or printed materials, handbills, photographs, pictures, films, tapes, or other visual or auditory materials not sponsored by Richard Milburn Academy or by a Richard Milburn Academy affiliated school-support organization shall not be sold, circulated, distributed, or posted on any Richard Milburn Academy premises by any Richard Milburn Academy student, except in accordance with this policy.

Richard Milburn Academy does not endorse, and shall not be responsible for, the contents of any non-school literature distributed by students.

For purposes of this policy, "distribution" means the circulation of more than ten printed copies of material from a source other than Richard Milburn Academy.

Each school campus shall designate an area where materials that have been approved for distribution by students in accordance with this policy may be made available or distributed. The Superintendent may develop reasonable time, place, and manner restrictions regarding the distribution of materials at designated areas.

Sec. 2. PRIOR REVIEW

All non-school literature intended for distribution by students under this policy shall be submitted to the Principal or designee for prior review according to the following procedures:

1. Materials shall include the name of the person or organization sponsoring the distribution.
2. Using the standards below at "Limitations on Content," the Principal or designee shall approve or reject submitted materials within three school days from the time the materials were received.

Each Principal shall designate times, locations, and means by which non-school literature that is appropriate for distribution may be made available or distributed by students at the campus.

Sec. 3. POLICY VIOLATIONS

Failure to comply with this policy shall result in appropriate administrative action, including

but not limited to confiscation of non-approved materials, suspension of a student group's use of Richard Milburn Academy facilities, and/or other disciplinary action in accordance with the Student Code of Conduct.

Sec. 4. LIMITATIONS ON CONTENT

Non-school literature shall not be distributed by students on Richard Milburn Academy property if:

1. The distribution of such materials would violate the intellectual property rights, privacy rights, or other rights of another person.
2. The materials advocate imminent lawless or disruptive action and are likely to incite or produce such action.
3. The materials are hate literature or similar publications that scurrilously attack ethnic, religious, or racial groups or contain content aimed at creating hostility and violence; and the materials would materially and substantially interfere with school activities or the rights of others.
4. The materials are obscene, vulgar, or otherwise inappropriate for the age and maturity of the audience.
5. The materials contain defamatory statements about public figures or others.
6. The materials endorse actions endangering the health or safety of students.
7. The materials promote illegal use of drugs, alcohol, or other controlled substances.
8. There is reasonable cause to believe that distribution of the non-school literature would result in material and substantial interference with school activities or the rights of others. Richard Milburn Academy may not demonstrate reasonable cause to believe that the expression would engender material and substantial interferences solely because other students, teachers, administrators, or parents may disagree with its content.

Sec. 5. APPEALS

Administrative decisions regarding this policy may be appealed in accordance with Board Policy PG-3.509 (Student and Parent Complaints and Grievances).

PG-3.506 STUDENT ACTIVITIES

Sec. 1. APPLICABILITY OF UIL RULES AND SCHOOL POLICIES

A student enrolled in Richard Milburn Academy who participates in an extracurricular activity or a University Interscholastic League ("UIL") competition is subject to Richard Milburn Academy policy and UIL rules regarding participation only when the student is under the direct supervision of Richard Milburn Academy employee or at any other time specified by resolution of the Board. *Education Code 33.081(b)*.

a) ***UIL Forms***

Each student participating in an extracurricular athletic activity must complete the UIL forms entitled "Pre-participation Physical Evaluation — Medical History" and "Acknowledgement of Rules." Each form must be signed by both the student and the student's parent or guardian.

Education Code 33.203(a).

If Richard Milburn Academy offers an extracurricular athletic activity, it shall:

1. Prominently display at its administrative offices the telephone number and electronic mail address that the Commissioner maintains for reporting violations of Education Code Chapter 33, Subchapter F; and
2. Provide each student participant and the student's parent or guardian a copy of the text of Education Code 33.201–33.207 and a copy of the UIL's parent information manual. The document may be provided in an electronic format unless otherwise requested by a student, parent, or guardian.

Education Code 33.207(b), .208.

b) ***Safety Training***

The UIL shall provide training to students participating in an extracurricular athletic activity related to:

1. Recognizing the symptoms of potentially catastrophic injuries, including head and neck injuries, concussions, injuries related to second impact syndrome, asthma attacks, heatstroke, cardiac arrest, and injuries requiring use of a defibrillator; and
2. The risks of using dietary supplements designed to enhance or marketed as enhancing athletic performance.

The training must be conducted by the UIL or by another organization as determined by the UIL, including the American Red Cross, the American Heart Association, or a similar organization. *Education Code 33.202(d)–(e)*.

i. *Records*

The Superintendent shall maintain complete and accurate records of Richard Milburn Academy's compliance with Education Code 33.202, and Richard Milburn Academy shall make available to the public proof of compliance for each person enrolled in, employed by, or volunteering for Richard Milburn Academy who is required to receive safety training described by Education Code 33.202.

A campus that is determined by the Superintendent to be out of compliance with the safety training requirements or the requirements regarding unsafe practices and safety precautions (see below) shall be subject to the range of penalties determined by the UIL.

Education Code 33.206.

c) ***Safety Precautions***

A coach, trainer, or sponsor of an extracurricular athletic activity may not encourage or permit a student participant to engage in any unreasonably dangerous athletic technique that unnecessarily endangers the health of a student, including using a helmet or any other sports equipment as a weapon. *Education Code 33.204*.

A coach, trainer, or sponsor for an extracurricular athletic activity shall at each athletic practice or competition ensure that:

1. Each student participant is adequately hydrated;
2. Any prescribed asthma medication for a student participant is readily available to the student;
3. Emergency lanes providing access to the practice or competition area are open and clear; and
4. Heatstroke prevention materials are readily available.

If a student participating in an extracurricular athletic activity, including a practice or competition, becomes unconscious during the activity, the student may not:

1. Return to the activity during which the student became unconscious; or
2. Participate in any extracurricular athletic activity until the student receives written authorization for such participation from a physician.

Education Code 33.205.

d) ***Prevention, Treatment, and Oversight of Concussions***

i. *Concussion Oversight Team*

If students participate in interscholastic athletic activity, the Board shall appoint or approve a concussion oversight team. *Education Code 38.153(a)*.

Each concussion oversight team must include at least one physician and, to the greatest extent practicable, considering factors including the population of the metropolitan statistical area in which Richard Milburn Academy is located, Richard Milburn Academy enrollment, and the availability of and access to licensed health-care professionals, must also include one or more of the following: an athletic trainer, an advanced practice nurse, a neuropsychologist, or a physician assistant. If
Richard Milburn Academy employs an athletic trainer, the athletic trainer must be a member of the concussion oversight team. If Richard Milburn Academy employs a school nurse, the school nurse may be a member of the concussion oversight team if requested by the school nurse.

Richard Milburn Academy may also include any person licensed under Occupations Code Chapter 201 (chiropractors) or Chapter 453 (physical therapists) as a member of the concussion oversight team, provided the person meets all training requirements under this policy.

Each member of the concussion oversight team must have had training in the evaluation, treatment, and oversight of concussions at the time of appointment or approval as a member of the concussion oversight team. The members also must take a training course approved by the UIL, the Texas Department of Licensing and Regulation, or another appropriate licensing agency at least once every two years and submit proof of timely completion to the Superintendent or designee in accordance with Education Code 38.158.

Education Code 38.154, .158.

ii. Return-to-Play Protocol

Each concussion oversight team shall establish a return-to-play protocol, based on peer-reviewed scientific evidence, for a student's return to interscholastic athletics practice or competition following the force or impact believed to have caused a concussion. *Education Code 38.153(b)*.

iii. Removal from Play

A student shall be removed from an interscholastic athletics practice or competition immediately if one of the following persons believes the student might have sustained a concussion during the practice or competition: a coach; a physician; a licensed healthcare professional, as defined by Education Code 38.151(5); a licensed chiropractor; a school nurse; or the student's parent or guardian or another person with legal authority to make medical decisions for the student. *Education Code 38.156*.

iv. Required Annual Form

A student may not participate in an interscholastic athletic activity for a school year until both the student and the student's parent or guardian or another person with legal authority to make medical decisions for the student have signed a form for that school year that acknowledges receiving and reading written information that explains concussion prevention, symptoms, treatment, and over- sight and that includes guidelines for safely resuming participation in an athletic activity following a concussion. The form must be approved by the UIL. *Education Code 38.155*.

A student shall be removed from an interscholastic athletics practice or competition immediately if one of the following persons believes the student might have sustained a concussion during the practice or competition: a coach; a physician; a licensed health care professional, as defined by Education Code 38.151(5); a person licensed under Chapter 201, Occupations Code; a school nurse; or the student's parent or guardian or another person with legal authority to make medical decisions for the student. *Education Code 38.156*.

v. Return to Play

A student removed from an interscholastic athletics practice or competition under Education Code 38.156 may not be permitted to practice or compete again following the force or impact believed to have caused the concussion until:

1. The student has been evaluated, using established medical protocols based on peer-reviewed scientific evidence, by a treating physician chosen by the student or the student's parent or guardian or another person with legal authority to make medical decisions for the student;
2. The student has successfully completed each requirement of the return-to-play protocol established under Education Code 38.153 necessary for the student to return to play;
3. The treating physician has provided a written statement indicating that, in the

physician's professional judgment, it is safe for the student to return to play; and

4. The student and the student's parent or guardian or another person with legal authority to make medical decisions for the student have acknowledged that the student has completed the requirements of the return-to-play protocol necessary for the student to return to play, have provided the treating physician's written statement to the person responsible for compliance with the return-to-play protocol and the person who has supervisory responsibilities, and have signed a consent form indicating that the person signing:
   a. Has been informed concerning and consents to the student participating in returning to play in accordance with the return-to-play protocol;
   b. Understands the risks associated with the student returning to play and will comply with any ongoing requirements in the return-to-play protocol;
   c. Consents to the disclosure to appropriate persons, consistent with the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, of the treating physician's written statement and, if any, the return-to-play recommendations of the treating physician; and
   d. Understands the immunity provisions under Education Code 38.159.

A coach of an interscholastic athletics team may not authorize a student's return to play.

The Superintendent or designee shall supervise an athletic trainer or other person responsible for compliance with the return-to-play protocol. The person who has supervisory responsibilities may not be a coach of an interscholastic athletics team.

Education Code 38.157.

e) Participation in UIL Activities by Students Receiving Outpatient Mental Health Students

Richard Milburn Academy may not adopt or enforce policies that restrict participation in UIL activities by a student based solely on:

1. A student receiving outpatient mental health services from a mental health facility, as defined by Health and Safety Code 571.003; or
2. A student's absence during instructional time while receiving outpatient mental health services from a mental health facility, as defined by Health and Safety Code 571.003.

This requirement does not exempt a student to whom this section applies from any other eligibility requirements for participation in UIL activities.

Education Code 33.0832.

f) Participation in UIL Activities by Homeschool Students

Except as provided in this section, Richard Milburn Academy may provide a non-enrolled student who is homeschooled, as described by Education Code 29.916(a)(1), and who otherwise meets UIL eligibility standards, with an opportunity to participate in the UIL activity on behalf of Richard Milburn Academy in the same manner as Richard Milburn Academy provides the opportunity to participate to students enrolled in Richard Milburn Academy.

A non-enrolled student who is homeschooled who seeks to participate in a UIL activity on behalf of Richard Milburn Academy is subject to the following relevant policies that apply to students enrolled in Richard Milburn Academy:

1. Registration for UIL activities;
2. Age eligibility;
3. Fees;
4. Insurance;
5. Transportation;
6. Physical condition;
7. Qualifications;
8. Responsibilities;
9. Event schedules;
10. Standards of behavior; and
11. Performance.

A non-enrolled student who is homeschooled may only participate in a UIL activity on behalf of Richard Milburn Academy only if the student would be eligible to attend Richard Milburn Academy based on the student's residential address. The non-enrolled student must establish minimum proof of residence acceptable to Richard Milburn Academy in the same manner as an applicant to attend Richard Milburn Academy.

The parent or person standing in parental relation to a non-enrolled student who is homeschooled is responsible for oversight of academic standards relating to the student's participation in a UIL activity.

As a condition of eligibility to participate in a UIL activity during the first six weeks of a school year, a non-enrolled student who is homeschooled must demonstrate grade-level academic proficiency on any nationally recognized, norm-referenced assessment instrument, such as the Iowa Test of Basic Skills, Stanford Achievement Test, California Achievement Test, or Comprehensive Test of Basic Skills. A non-enrolled student demonstrates the required academic proficiency by achieving a composite, core, or survey score that is within the average or higher than average range of scores, as established by the applicable testing service. For purposes of this paragraph, Richard Milburn Academy shall accept assessment results administered or reported by a third party. A non-enrolled student's demonstration of academic proficiency under this paragraph is sufficient for the school year in which the student achieves the required score and the subsequent school year.

After the first six weeks of a school year, the parent or person standing in parental relation to a non-enrolled student participating in a UIL activity on behalf of Richard Milburn Academy must periodically, and in accordance with Richard Milburn Academy's grading calendar, provide written verification to Richard Milburn Academy indicating that the student is receiving a passing grade in each course or subject being taught.

A non-enrolled student is not authorized to participate in a UIL activity on behalf of Richard Milburn Academy during the remainder of any school year during which the student was previously enrolled in a public school.

A non-enrolled student who participates in a UIL activity on behalf of Richard Milburn Academy is subject to the immunization requirements and exceptions of Education Code 38.001 in the same manner as a public school student.

Education Code 33.0832.

Sec. 2. CARDIAC ASSESSMENT OF HIGH SCHOOL PARTICIPANTS IN EXTRACURRICULAR ATHLETIC ACTIVITIES

To the extent required by the UIL, Richard Milburn Academy will provide a student who is required under UIL rule or policy to receive a physical examination before being allowed to participate in an athletic activity sponsored or sanctioned by the UIL information about sudden cardiac arrest and electrocardiogram testing and notification of the option of the student to request the administration of an electrocardiogram in addition to the physical examination.

A student may request an electrocardiogram from any health professional, including a health care professional provided through a health care professional chosen by the parent or person standing in parental relation to the student, provided the health care professional is:

1. Appropriately licensed in Texas; and
2. Authorized to administer an interpret electrocardiograms under the health care professional's scope of practice, as established by the health care professional's Texas licensing act.

This section does not create a cause of action or liability or a standard of care, obligation, or duty that provides a basis for a cause of action or liability against a health care professional, the UIL, or a Richard Milburn Academy employee or officer for:

1. The injury or death of a student participating in or practicing for an athletic activity sponsored or sanctioned by the UIL based on or in connection with the administration

or interpretation of or reliance on an electrocardiogram; or
2. The content or distribution of the information required under this section or the failure to distribute the required information under this section.

Education Code 33.096.

Sec. 3. MILITARY DEPENDENTS

Richard Milburn Academy shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified. *Education Code 162.002 art. VI, § B*.

Sec. 4. SUSPENSION FROM EXTRACURRICULAR ACTIVITIES

A student shall be suspended from participation in any extracurricular activity sponsored or sanctioned by Richard Milburn Academy or the UIL after a grade evaluation period inwhich the student received a grade lower than the equivalent of 70 on a scale of 100 in any academic class other than a course described below at "Exempt Courses."

a) Length of Suspension

A suspension continues for at least three school weeks and is not removed during the school year until the conditions of Education Code 33.081(d) are met. A suspension shall not last beyond the end of a school year.

b) Grade Evaluation Period

"Grade evaluation period" means:
1. The six-week grade reporting period; or
2. The first six weeks of a semester and each grade reporting period thereafter, in the case of a district with a grade reporting period longer than six weeks.

Education Code 33.081(c).

c) School Week

For purposes of this policy, the school week is defined as beginning at 12:01 a.m. on the first instructional day of the calendar week and ending at the close of instruction on the last instructional day of the calendar week, excluding holidays. *19 TAC 76.1001(b)*.

d) Exempt Courses

The suspension and reinstatement provisions of Education Code 33.081(c) and (d) do not apply to an advanced placement or international baccalaureate course, or to an honors or dual credit course in the subject areas of English language arts, mathematics, science, social studies, economics, or a language other than English.

The following are honors classes for purposes of eligibility to participate in extracurricular

activities:

1. All College Board Advanced Placement courses and International Baccalaureate courses in all disciplines;
2. English language arts: high school/college concurrent enrollment classes that are included in the "Lower-Division Academic Course Guide Manual (Approved Courses)";
3. Languages other than English: high school/college concurrent enrollment classes that are included in the "Lower-Division Academic Course Guide Manual (Approved Courses)" and languages other than English courses Levels IV–VII;
4. Mathematics: high school/college concurrent enrollment classes that are included in the "Lower-Division Academic Course Guide Manual (Approved Courses)" and pre-calculus;
5. Science: high school/college concurrent enrollment classes that are included in the "Lower- Division Academic Course Guide Manual (Approved Courses)"; and
6. Social Studies: Social Studies Advanced Studies, Economics Advanced Studies, and high school/college concurrent enrollment classes that are included in the "Lower-Division Academic Course Guide Manual (Approved Courses)."

Richard Milburn Academy may identify additional honors courses in the subject areas of English language arts, mathematics, science, social studies, or a language other than English for the purposes of extracurricular eligibility, but must identify such courses before the semester in which any exemptions related to extracurricular activities occur.

Richard Milburn Academy is neither required to nor restricted from considering courses as honors for the purpose of grade point average calculation.
Education Code 33.081(d-1); *19 TAC 74.30*.

e) Students with Disabilities

In the case of a student with a disability that significantly interferes with the student's ability to meet regular academic standards, suspension must be based on the student's failure to meet the requirements of the student's individualized education program ("IEP"). The determination of whether the disability significantly interferes with the student's ability to meet regular academic standards must be made by the admission, review, and dismissal ("ARD") committee.

For the purposes of this provision, "student with a disability" means a student who is eligible for Richard Milburn Academy's special education program under Education Code 29.003(b).
Education Code 33.081(e).

f) Practice or Rehearsal

A student suspended under Education Code 33.081 may practice or rehearse with other students for an extracurricular activity but may not participate in a competition or other public performance. *Education Code 33.081(f)*.

g) Reinstatement

Until the suspension is removed or the school year ends, Richard Milburn Academy shall

review the grades of a student at the end of each three-week period following the date on which the suspension began. At the time of a review, the suspension is removed if the student's grade in each class, other than a course described above at "Exempt Courses," is equal to or greater than the equivalent of 70 on a scale of 100. The principal and each of the student's teachers shall make the determination concerning the student's grades. *Education Code 33.081(d)*.

Sec. 5. ATTENDANCE AND PARTICIPATION

Richard Milburn Academy shall make no distinction between absences for UIL activities and absences for other extracurricular activities approved by the Board. A student shall be allowed in a school year a maximum of ten extracurricular absences not related to post-district competition, a maximum of five absences for post-district competition prior to state, and a maximum of two absences for state competition.

a) State Board of Education Rules

The following provisions apply to any UIL activity.

Other organizations requiring student participation that causes a student to miss a class may request sanction from the Board. If sanctioned by resolution of the Board, student participation in the organization's activities shall be subject to all provisions of 19 TAC 76.1001. If the Board does not grant sanction, any absences incurred by a student while participating with that organization's activities shall be subject to the attendance provisions of the Education Code. *19 TAC 76.1001(f)*.

b) Extracurricular Activities

An extracurricular activity is an activity sponsored by the UIL, the Board, or an organization sanctioned by Board resolution. The extracurricular activity is not necessarily directly related to instruction of the essential knowledge and skills, but may have an indirect relation to some areas of the curriculum.

Extracurricular activities include, but are not limited to, public performances (except as described below), contests, demonstrations, displays, and club activities. In addition, an extracurricular activity is subject to this policy if any one of the following criteria applies:

1. The activity is competitive;
2. The activity is held in conjunction with another activity that is considered extracurricular;
3. The activity is held off-campus, except in a case in which adequate facilities do not exist on campus;
4. The general public is invited; or
5. An admission is charged.

i. Exception – Public Performances

A student ineligible to participate in an extracurricular activity, but who is enrolled in a state-approved course that requires demonstration of the mastery of the essential knowledge and skills in a public performance, may participate in the performance if:

1. Only item 4, above, applies; and
2. The requirement for student participation in public is stated in the essential knowledge and skills of the course.

ii. *State-Approved Music Courses*

A student ineligible to participate in an extracurricular activity, but who is enrolled in a state-approved music course that participates in UIL Concert and Sight-Reading Evaluation, may perform with the ensemble during the UIL Evaluation performance.
19 TAC 76.1001(a).

a) Limits on Participation and Practice

i. *During the School Week*

Limitations on practice, rehearsal, and student participation during the school week shall be as follows:

1. For any given extracurricular activity, a student may not participate in more than one extracurricular activity per school week, excluding holidays, except as provided in item 2, below.
2. A student may also participate in a tournament or post-district contest, as well as a contest postponed by weather or public disaster that may determine advancement to a post-district level of competition.
3. For each extracurricular activity, Richard Milburn Academy must limit students to a maximum of eight hours of practice and rehearsal outside the school day per school week.
4. If possible, Richard Milburn Academy should avoid scheduling extracurricular activities or public performances on the day or evening immediately preceding the day on which the statewide student assessment program is scheduled for grades 3–11.

19 TAC 76.1001(d); *Education Code 33.081(a)*.

ii. *During the School Day*

Limitations on practice and rehearsal during the school day shall be as follows:

1. Richard Milburn Academy must limit a student to one period of practice during the regularly scheduled school day for practice of extracurricular activities, such as athletics, drill team, or cheerleading.
2. The limit in item 1 does not prohibit a student from enrolling in any state-approved class. A student who is enrolled in a state-approved class that includes essential knowledge and skills that relate to the preparation for an extracurricular activity may practice that extracurricular activity for no more than one period during the school day.
3. A student may not be permitted to miss a scheduled academic class to practice for an unrelated extracurricular activity.
4. Richard Milburn Academy must limit extracurricular practice during the school day to ensure that class periods for extracurricular practice do not exceed the time allotted

for other class periods.

5. Richard Milburn Academy may elect to practice extracurricular activities daily, provided the total minutes allowed for the extracurricular practice is not greater than 300 minutes during the school week.

19 TAC 76.1001(d); *Education Code 33.081(a)*.

b) Record of Absences

Richard Milburn Academy shall maintain an accurate record of extracurricular absences for each student each school year. *19 TAC 76.1001(c)*.

Sec. 6. APPLICABILITY OF SCHOOL POLICY STUDENT CODE OF CONDUCT

Students are subject to Richard Milburn Academy policies and rules, including the Student Handbook and Student Code of Conduct, at any time the student is traveling to, participating in, attending an extracurricular or school-related event or activity on or off Richard Milburn Academy property, or when under the direct supervision of a Richard Milburn Academy employee.

PG-3.507 STUDENT INSURANCE

Sec. 1. OPTIONAL INSURANCE

The Board may purchase insurance against bodily injury sustained by students while training for or engaging in interscholastic athletic competition or while engaging in school-sponsored activities on a school campus. Such insurance shall be purchased from a reliable insurance company authorized to do business in Texas and shall be on forms approved by the commissioner of insurance. The amount shall be in keeping with the financial condition of Richard Milburn Academy and shall not exceed the amount that the Board considers reasonably necessary to afford adequate medical treatment of students so injured.

Sec. 2. PAYMENT OF PREMIUMS

The cost of student insurance shall constitute a legitimate part of the total cost of operating Richard Milburn Academy.

Sec. 3. NO LIABILITY FOR FAILURE TO PURCHASE

The failure of the Board to purchase student insurance shall not be construed as placing any legal liability upon Richard Milburn Academy or its officers, agents, or employees for any injury that may result.

Education Code 38.024.

Sec. 4. OTHER COVERAGE

Richard Milburn Academy is not authorized to spend public funds on insurance to benefit persons to whom it owes no legal duty and shall not expend public funds for that purpose.

PG-3.508 STUDENT DRESS CODE

Sec. 1. PURPOSE

Richard Milburn Academy's dress and grooming standards are designed to teach grooming and hygiene, prevent disruption, minimize safety hazards, and provide a dress standard that offers flexibility for the parent and student. Students must come to school cleanly and neatly groomed and wearing clothing that will not be a health or safety hazard to the student or others, and that will not distract from or interfere with the educational atmosphere of the school.

Sec. 2. GENERAL GUIDELINES

The Superintendent or designee shall establish dress and grooming standards for all students. Violations of dress and grooming standards shall be described in the Student Code of Conduct. Principals may, at their discretion, impose additional reasonable dress and grooming standards.

Sec. 3. EXTRACURRICULAR ACTIVITIES

Principals, in cooperation with the sponsor, coach, or other person in charge of an extracurricular activity, may regulate the dress and grooming of students who participate in the activity. Students who violate dress and grooming standards established for such an activity may be removed or excluded from the activity for a period determined by the Principal or sponsor and may be subject to other disciplinary action, as specified in the Student Code of Conduct.

Sec. 4. UNIFORMS

If the Board determines that requiring school uniforms would improve the learning environment at Richard Milburn Academy, the Board may adopt rules that require students at that school to wear school uniforms. Students shall wear uniforms beginning on the 90th day after the date on which the Board adopts the rules.

a) Funding

The rules adopted by the Board must designate a source of funding to be used to provide uniforms for educationally disadvantaged students.

b) Exemptions

A parent or guardian of a student assigned to a school where uniforms are required may choose for the student to be exempted from the uniform requirement. In order to exercise this option, the parent or guardian must provide a written statement that states a religious or philosophical objection to the uniform requirement that the Board determines is bona fide.

PG-3.509 STUDENT AND PARENT COMPLAINTS AND GRIEVANCES

Sec. 1. GUIDING PRINCIPLES

In this policy, the terms "complaint" and "grievance" shall have the same meaning.

a) Informal Process

Richard Milburn Academy encourages students and parents to discuss their complaints or grievances with the appropriate teacher, principal, or other campus administrator who has the authority to address the concerns. Concerns and complaints should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

b) Grievance Procedures

The Superintendent or designee shall develop a detailed grievance process; this process shall recognize the Board's final authority to hear or decide parent and student grievances. The grievance process shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or "mini-trial" at any level.

The Superintendent or designee shall ensure that the detailed grievance process is made available to students and parents through the Student Handbook.

c) Board Consideration of Student and Parent Grievances

The Board shall retain final authority to hear or decide parent and student grievances. *19 TAC 100.1113(a)(1)(A).*

The Board may conduct a closed meeting when hearing or deciding a parent or student grievance as allowed by applicable law. *Gov't Code Ch. 551, Subch. D.*

d) Freedom from Retaliation

Neither the Board nor any Richard Milburn Academy employee shall unlawfully retaliate against any student or parent for bringing a concern or complaint.

TPCSA Model Board Policy Series

Module 4 – *Personnel*

Richard Milburn Academy

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PG-4.101 EQUAL EMPLOYMENT OPPORTUNITY

SEC. 1. NONDISCRIMINATION IN GENERAL

RMA shall not fail or refuse to hire or discharge any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment on the basis of any of the following protected characteristics:

1. Race, color, or national origin;
2. Sex or gender;
3. Religion;
4. Age (applies to individuals who are 40 years of age or older);
5. Disability; or
6. Genetic information.

42 U.S.C. 1981; 42 U.S.C. 2000e et seq. (Title VII); 20 U.S.C. 1681 et seq. (Title IX); 42 U.S.C. 12111 et seq. (Americans with Disabilities Act); 29 U.S.C. 621 et seq. (Age Discrimination in Employment Act); 29 U.S.C. 793, 794 (Rehabilitation Act); 42 U.S.C. 2000ff et seq. (Genetic Information Nondiscrimination Act); U.S. Const. Amend. I; Human Resources Code 121.003(f); Texas Labor Code Chapter 21 (Texas Commission on Human Rights Act); Texas Labor Code Chapter 21, Subchapter H (genetic information).

a) Job Qualification

RMA may take employment actions based on religion, sex, national origin, or age in those certain instances where religion, sex, national origin, or age is a bona fide occupational qualification.

42 U.S.C. 2000e-2(e); 29 U.S.C. 623(f); Labor Code 21.119.

b) Employment Postings

RMA shall not print or publish any notice or advertisement relating to school employment that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, or national origin, unless the characteristic is a bona fide occupational qualification.

42 U.S.C. 2000e-3(b); Labor Code 21.059.

c) Harassment of Employees

RMA shall maintain a working environment free of harassment on the basis of protected characteristics.

42 U.S.C. 2000e et seq.; 29 CFR 1606.8(a), 1604.11.

d) Retaliation

RMA may not discriminate against any employee or applicant for employment because the employee or applicant has opposed any unlawful, discriminatory employment practices or participated in the investigation of any complaint related to an unlawful, discriminatory employment practice.

29 U.S.C. 623(d) (ADEA); 42 U.S.C. 2000e-3(a) (Title VII); 34 CFR 100.7(e) (Title VI); 34 CFR 110.34 (Age Act); 42 U.S.C. 12203 (ADA); Jackson v. Birmingham Bd. of Educ., 544 U.S. 167 (2005) (Title IX); Labor Code 21.055.

e) Notices

The Superintendent or designee shall post in conspicuous places upon its premises a notice setting forth the information the Equal Employment Opportunity Commission deems appropriate to effectuate the purposes of the anti-discrimination laws.

29 U.S.C. 627; 42 U.S.C. 2000e-10.

i. *Section 504 Notice*

The Superintendent or designee shall take appropriate steps to notify applicants and employees, including those with impaired vision or hearing, that RMA does not discriminate on the basis of disability.

The notice shall state:
1. That RMA does not discriminate in employment in its programs and activities; and
2. The identity of RMA's 504 Coordinator.

Methods of notification may include:
1. Posting of notices;
2. Publication in newspapers and magazines;
3. Placing notices in School publications; and
4. Distributing memoranda or other written communications.

If RMA publishes or uses recruitment materials containing general information that it makes available to applicants or employees, it shall include in those materials a statement of its non-discrimination policy.

34 CFR 104.8.

f) Racial Discrimination Based on Hair Texture or Protective Hairstyle

For purposes of RMA policy, any provision referring to discrimination because of race or on the basis of race includes discrimination because of or on the basis of an employee's hair texture or protective hairstyle commonly or historically associated with race. The term "protective hairstyle" includes braids, locks, and twists.

Labor Code 21.1095.

SEC. 2. AGE DISCRIMINATION

The prohibition against discrimination on the basis of age applies only to discrimination against an individual 40 years of age or older.

29 U.S.C. 631; Labor Code 21.101.

RMA may take an employment action on the basis of age pursuant to a bona fide seniority system or a bona fide employee benefit plan. However, a bona fide employee benefit plan shall not excuse the failure to hire any individual and no such benefit plan shall require or permit the involuntary retirement of any individual because of age.

29 U.S.C. 623(f); Labor Code 21.102.

SEC. 3. SEX DISCRIMINATION

a. Gender Stereotypes

RMA may not evaluate employees by assuming or insisting that they match the stereotype associated with their group.

Price Waterhouse v. Hopkins, 490 U.S. 228 (1989).

b. Pregnancy

RMA shall treat women affected by pregnancy, childbirth, or related medical conditions the same for all employment-related purposes, including receipt of benefits under fringe benefit programs.

42 U.S.C. 2000e(k); 42 U.S.C. Ch. 21G (Pregnant Worker Fairness Act); 29 CFR 1604.10; Labor Code 21.106.

c. Equal Pay

RMA may not pay an employee at a rate less than the rate paid to employees of the opposite sex for equal work on jobs the performance of which require equal skill, effort, or responsibility and which are performed under similar working conditions. This rule does not apply if the payment is pursuant to a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on any other factor other than sex.

29 U.S.C. 206(d)(Equal Pay Act); 34 CFR 106.54 (Title IX).

SEC. 4. RELIGIOUS DISCRIMINATION

The prohibition against discrimination on the basis of religion includes all aspects of religious observances and practice, as well as religious belief, unless RMA demonstrates that it is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship to RMA's business. "Undue hardship" means more than a de minimus (minimal) cost.

42 U.S.C. 2000e(j); 29 CFR 1605.2; Labor Code 21.108.

RMA may not substantially burden an employee's free exercise of religion, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest.

Civ. Prac. & Rem. Code 110.003.

SEC. 5. DISABILITY DISCRIMINATION

RMA may not discriminate against a qualified individual on the basis of disability in job application procedures, hiring, advancement, or discharge of employees, compensation, job training, and other terms, conditions, and privileges of employment.

42 U.S.C. 12112(a), 12201(g); 29 U.S.C. 794(a); Labor Code 21.051, 21.105.

a. Discrimination Based on Lack of Disability

The Americans with Disabilities Act ("ADA") and the Texas Commission on Human Rights Act do not provide a basis for a claim that an individual was subject to discrimination because of the individual's lack of disability.

42 U.S.C. 12201(g); 29 CFR 1630.4(b); Labor Code 21.005(c).

RMA must take positive efforts, if it receives assistance under the Individuals with Disabilities Education Act ("IDEA"), to employ and advance in employment qualified individuals with disabilities in programs assisted by the IDEA.

34 CFR 300.177(b).

b. Definition of Disability

"Disability" means a physical or mental impairment that substantially limits one or more of an individual's major life activities, a record of having such an impairment, or being regarded as having such an impairment.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

An individual meets the requirement of being "regarded as" having an impairment if the individual establishes that he or she has been subjected to a prohibited action because of an

actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. However, this provision does not apply to impairments that are transitory or minor. A transitory impairment is one with an actual or expected duration of six months or less.

42 U.S.C. 12102(1), (3), (4); 29 CFR 1630.2(g); Labor Code 21.002, 21.0021.

c. Mitigating Measures

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, low-vision devices, prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

The ameliorative effects of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity. Ordinary eyeglasses and contact lenses are lenses that are intended to fully correct visual acuity or to eliminate refractive error.

42 U.S.C. 12102(1), (3), (4); 29 CFR 1630.2(g), (j)(1); Labor Code 21.002, .0021.

d. Other Definitions

i. *Physical or Mental Impairment*

"Physical or mental impairment" means:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or
2. Any mental or psychological disorder, such as an intellectual disability (formerly termed "mental retardation"), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

29 CFR 1630.2(h).

ii. *Major Life Activities*

"Major life activities" include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. "Major life activities" also include the operation of major bodily functions, including functions of the immune system, normal cell

growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

42 U.S.C. 12102(2); 29 CFR 1630.2(i); Labor Code 21.002.

iii. *Qualified Individual*

"Qualified individual" means an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires. A written job description prepared before advertising or interviewing applicants for the job is evidence of the job's essential functions.

4*2 U.S.C. 12111(8); 29 CFR 1630.2(m)*.

e. Reasonable Accommodations

RMA shall make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability, unless RMA can demonstrate that the accommodation would impose an undue hardship on the operation of RMA.

42 U.S.C. 12112(b)(5); 29 CFR 1630.2(o)(4), .9; 29 U.S.C. 794; 34 CFR 104.11; Labor Code 21.128.

"Reasonable accommodation" includes:

1. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
2. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

42 U.S.C. 12111(9); 29 CFR 1630.2(o); 34 CFR 104.12(b).

"Undue hardship" means an action requiring significant difficulty or expense when considered in light of the nature and cost of the accommodation needed, overall financial resources of the affected facility and RMA, and other factors set out in law.

42 U.S.C. 12111(10); 29 CFR 1630.2(p); 34 CFR 104.12(c).

f. Discrimination Based on Relationship

RMA shall not exclude or deny equal jobs or benefits to, or otherwise discriminate against, a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a family, business, social, or other relationship or association.

42 U.S.C. 12112(b)(4); 29 CFR 1630.8; 34 CFR 104.11.

g. Illegal Drugs and Alcohol

The term "qualified individual with a disability" does not include any employee or applicant who is currently engaging in the illegal use of drugs, when RMA acts on the basis of such use.

i. *Drug Testing*

RMA is not prohibited from conducting drug testing of employees and applicants for the illegal use of drugs or making employment decisions based on the results of such tests.

42 U.S.C. 12114(c), (d); Labor Code 21.002(6)(A).

ii. *Alcohol Use*

The term "qualified individual with a disability" does not include an individual who is an alcoholic and whose current use of alcohol prevents the employee from performing the duties of his or her job or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.

42 U.S.C. 12114(a); 29 U.S.C. 705(20)(C); 29 CFR 1630.3(a); 28 CFR 35.104; Labor Code 21.002(6)(A).

h. Qualification Standards

i. *Direct Threat to Health or Safety*

As a qualification standard, RMA may require that an individual not pose a direct threat to the health or safety of other individuals in the workplace. "Direct threat" means a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation.

42 U.S.C. 12111(3); 29 CFR 1630.2(r); Labor Code 21.002(6)(B).

ii. *Vision Standards and Tests*

RMA shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by RMA, is shown to be job-related for the position in question and consistent with business necessity.

42 U.S.C. 12113(c); 29 CFR 1630.10(b); Labor Code 21.115(b).

iii. *Communicable Diseases*

RMA may refuse to assign or continue to assign an individual to a job involving food handling if the individual has an infectious or communicable disease that is transmitted to others through handling of food.

42 U.S.C. 12113(e); 29 U.S.C. 705(20)(D); 29 CFR 1630.16(e); Labor Code 21.002(6)(B).

i. Service Animals

RMA shall comply with the reasonable accommodation requirements of Title I of the ADA and/or Section 504 of the Rehabilitation Act with respect to service animals.

28 C.F.R. 35.140.

SEC. 6. BREASTFEEDING ACCOMMODATIONS IN THE WORKPLACE

RMA shall, subject to any undue hardship exceptions allowed under the law, provide:

1. A reasonable break time for an employee to express breast milk for such employee's nursing child for one year after the child's birth each time the employee has need to express the milk; and
2. A place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.

SEC. 7. NONDISCRIMINATION BASED ON PREGNANCY

RMA is fully committed to complying with the Pregnant Workers Fairness Act ("PWFA"), which allows qualified employees to receive reasonable accommodations to the known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation would impose an undue hardship on RMA.

RMA does not discriminate against qualified employees because they are pregnant.

SEC. 8. MILITARY SERVICE

RMA shall not deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of membership in a uniformed service, performance in a uniformed service, application for uniformed service, or obligation to a uniformed service. RMA shall not take adverse employment action or discriminate against any person who takes action to enforce protections afforded by the Uniformed Services Employment and Re-employment Rights Act (USERRA).

38 U.S.C. 4311.

SEC. 9. GENETIC NONDISCRIMINATION

a. Definitions

For the purpose of the Genetic Information Nondiscrimination Act (GINA), "genetic information" means information about:

1. An individual's genetic tests;
2. The genetic tests of that individual's family members;
3. The manifestation of disease or disorder in family members of the individual (family medical history);
4. An individual's request for or receipt of genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; or
5. The genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.

"Genetic information" ***does not include*** information about the sex or age of the individual, the sex or age of family members, or information about the race or ethnicity of the individual or family members that is not derived from a genetic test.

29 CFR 1635.3(c).

"Genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detects genotypes, mutations, or chromosomal changes. Genetic tests include, but are not limited to:

1. A test to determine whether someone has the BRCA1 or BRCA2 variant evidencing a predisposition to breast cancer, a test to determine whether someone has a genetic variant associated with hereditary nonpolyposis colon cancer, and a test for a genetic variant for Huntington's Disease;
2. Carrier screening for adults using genetic analysis to determine the risk of conditions such as cystic fibrosis, sickle cell anemia, spinal muscular atrophy, or fragile X syndrome in future offspring;
3. Amniocentesis and other evaluations used to determine the presence of genetic abnormalities in a fetus during pregnancy;
4. Newborn screening analysis that uses DNA, RNA, protein, or metabolite analysis to detect or indicate genotypes, mutations, or chromosomal changes, such as a test for PKU performed so that treatment can begin before a disease manifests;
5. Pre-implantation genetic diagnosis performed on embryos created using in vitro fertilization;
6. Pharmacogenetic tests that detect genotypes, mutations, or chromosomal changes that indicate how an individual will react to a drug or a particular dosage of a drug;

7. DNA testing to detect genetic markers that are associated with information about ancestry; and
8. DNA testing that reveals family relationships, such as paternity.

Examples of tests or procedures that are not genetic tests are:

1. An analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes;
2. A medical examination that tests for the presence of a virus that is not composed of human DNA, RNA, chromosomes, proteins, or metabolites;
3. A test for infectious and communicable diseases that may be transmitted through food handling;
4. Complete blood counts, cholesterol tests, and liver-function tests.

A test for the presence of alcohol or illegal drugs is not a genetic test. However, a test to determine whether an individual has a genetic predisposition for alcoholism or drug use is a genetic test.

29 CFR 1635.3(f).

b. Notices

The Superintendent or designee shall post in conspicuous places on school premises, where notices to employees and applicants for employment are customarily posted, a notice setting forth excerpts from or summaries of the pertinent provisions of the GINA regulation and information pertinent to the filing of a complaint.

29 CFR 1635.10(c).

c. Prohibited Practices

i. *Discrimination*

RMA shall not discriminate against an individual on the basis of genetic information in regard to hiring, discharge, compensation, or terms, conditions, or privileges of employment.

42 U.S.C. 2000ff-1(a); 29 CFR 1635.4.

ii. *Retaliation*

RMA shall not discriminate against an individual because the individual has opposed any act or practice made unlawful by GINA or because the individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under GINA.

41 U.S.C. 2000ff-6(f); 29 CFR 1635.7.

iii. *Acquisition*

Except as set forth below or otherwise provided in the GINA regulations, RMA shall not request, require, or purchase genetic information of an individual or family member of the individual.

42 U.S.C. 2000ff-1(b); 29 CFR 1635.8(a).

"Request" includes:

1. Conducting an Internet search on an individual in a way that is likely to result RMA's obtaining genetic information;
2. Actively listening to third-party conversations or searching an individual's personal effects for the purpose of obtaining genetic information; and
3. Making requests for information about an individual's current health status in a way that is likely to result in RMA's obtaining genetic information.

29 CFR 1635.8(a).

iv. *Disclosure*

Except as set forth in the GINA regulations, RMA shall not disclose the genetic information of an employee, regardless of how RMA obtained the information.

29 CFR 1635.9(b).

d. Manifested Condition

RMA shall not be considered to be in violation of the GINA regulations based on the use, acquisition, or disclosure of medical information about a manifested disease, disorder, or pathological condition of an employee, even if the disease, disorder, or pathological condition has or may have a genetic basis or component. However, genetic information about a manifested disease, disorder, or pathological condition is subject to the requirements and prohibitions of GINA.

29 CFR 1635.12.

"Manifestation" or "manifested" means, with respect to a disease, disorder, or pathological condition, that an individual has been or could reasonably be diagnosed with the disease, disorder, or pathological condition by a health-care professional with appropriate training and expertise in the field of medicine involved. A disease, disorder, or pathological condition is not manifested if the diagnosis is based principally on genetic information.

29 CFR 1635.3(g).

e. Inadvertent Acquisition

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where RMA inadvertently requests or requires genetic information of the individual or family member of the individual. This exception applies in, but is not necessarily limited to, situations where a manager or supervisor learns genetic information about an individual by:

1. Overhearing a conversation between the individual and others;
2. Receiving the information during a casual conversation, including in response to an ordinary expression of concern that is the subject of the conversation. This exception does not apply where a supervisor follows up with questions that are probing in nature, such as whether other family members have the condition or whether the individual has been tested for the condition, because the supervisor or official should know that these questions are likely to result in the acquisition of genetic information;
3. Receiving unsolicited information (e.g., where a supervisor receives an unsolicited e-mail about the health of an employee's family member from a co-worker); or
4. Accessing a social media platform that the supervisor was given permission to access by the creator of the profile at issue (e.g., a supervisor and employee are connected on a social networking site and the employee provides family medical history on his page).

29 CFR 1635.8(b)(1)(ii).

f. Requests for Medical Information

If RMA acquires genetic information in response to a lawful request for medical information, the acquisition of genetic information will not generally be considered inadvertent unless RMA directs the individual and/or health-care provider from whom it requested medical information not to provide genetic information.

29 CFR 1635.8(b)(1)(i)(A).

Situations involving lawful requests for medical information include, for example:

1. Requests for documentation to support a request for reasonable accommodation under federal, state, or local law where the disability and/or need for accommodation is not obvious, the documentation is no more than is sufficient to establish that an individual has a disability and needs a reasonable accommodation, and the documentation relates only to the impairment that the individual claims to be a disability that requires reasonable accommodation;
2. Requests for medical information as required, authorized, or permitted by federal, state, or local law, such as where an employee requests leave under the Family and Medical Leave Act ("FMLA") to attend to the employee's own serious health condition or where an employee complies with the FMLA's employee return to work certification requirements; or
3. Requests for documentation to support leave that is not governed by federal, state, or local laws requiring leave, as long as the documentation required to support the request

otherwise complies with the requirements of the ADA and other laws limiting RMA's access to medical information.

29 CFR 1635.8(b)(1)(i)(D).

i. *Safe Harbor*

Any receipt of genetic information in response to a request for medical information shall be deemed inadvertent if RMA uses language such as the following:

"The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. 'Genetic information,' as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services."

RMA's failure to give such a notice or to use this or similar language will not prevent RMA from establishing that a particular receipt of genetic information was inadvertent if the request for medical information was not likely to result in RMA's obtaining genetic information (for example, where an overly broad response is received in response to a tailored request for medical information).

29 CFR 1635.8(b)(1)(i)(B), (C).

g. Employment Examinations

The prohibition on acquisition of genetic information applies to medical examinations related to employment. RMA shall tell health-care providers not to collect genetic information, including family medical history, as part of a medical examination intended to determine the ability to perform a job.

29 CFR 1635.8(d).

i. Remedial Measures

RMA shall take additional reasonable measures within its control if it learns that genetic information is being requested or required in medical examinations related to employment. Such reasonable measures may depend on the facts and circumstances under which a request for genetic information was made, and may include no longer using the services of a health-care professional who continues to request or require genetic information during medical examinations after being informed not to do so.

29 CFR 1635.8(d).

h. Health or Genetic Services

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where RMA offers health or genetic services, including services offered as part of a voluntary wellness program, if the conditions at 29 CFR 1635.8(b)(2) are met.

RMA may not offer a financial inducement for individuals to provide genetic information but may offer financial inducements for completion of health risk assessments that include questions about family medical history or other genetic information. RMA shall make clear, in language reasonably likely to be understood by those completing the health risk assessment, that the inducement will be made available whether or not the participant answers questions regarding genetic information.

RMA may offer financial inducements to encourage individuals who have voluntarily provided genetic information (e.g., family medical history) that indicates that they are at increased risk of acquiring a health condition in the future to participate in disease management programs or other programs that promote healthy lifestyles, and/or to meet particular health goals as part of a health or genetic service. However, RMA must also offer these programs to individuals with current health conditions and/or to individuals whose lifestyle choices put them at increased risk of developing a condition.

29 CFR 1635.8(b)(2).

i. Leave Requests

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where RMA requests family medical history to comply with the certification provisions of the FMLA or state or local family and medical leave laws, or pursuant to a policy (even in the absence of requirements of federal, state, or local leave laws) that permits the use of leave to care for a sick family member and that requires all employees to provide information about the health condition of the family member to substantiate the need for leave.

29 CFR 1635.8(b)(3).

j. Publicly Available Information

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where RMA acquires genetic information from documents that are commercially and publicly available for review or purchase, including newspapers, magazines, periodicals, or books, or through electronic media, such as information communicated through television, movies, or the Internet, except that this exception does not apply to:

1. Medical databases, court records, or research databases available to scientists on a restricted basis;
2. Genetic information acquired through sources with limited access, such as social networking sites and other media sources which require access permission from a specific individual or where access is conditioned on membership in a particular group, unless RMA can show that access is routinely granted to all who request it;
3. Genetic information obtained through commercially and publicly available sources if RMA sought access to those sources with the intent of obtaining genetic information; or
4. Genetic information obtained through media sources, whether or not commercially and publicly available, if RMA is likely to acquire genetic information by accessing those sources, such as Web sites and online discussion groups that focus on issues such as genetic testing of individuals and genetic discrimination.

29 CFR 1635.8(b)(4).

k. Workplace Monitoring

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where RMA acquires genetic information for use in the genetic monitoring of the biological effects of toxic substances in the workplace. Such monitoring must meet the criteria at

29 CFR 1635.8(b)(5). *29 CFR 1635.8(b)(5)*

l. Inquiries Made of Family Members

RMA does not violate the GINA regulations when it requests, requires, or purchases information about a manifested disease, disorder, or pathological condition of an employee whose family member is also employed by RMA or who is receiving health or genetic services on a voluntary basis. For example, RMA does not violate the GINA regulations by asking someone whose sister also works for RMA to take a post-offer medical examination that does not include requests for genetic information.

29 CFR 1635.8(c).

m. Confidentiality

The Superintendent or designee shall maintain genetic information in writing about an employee on forms and in medical files (including where the information exists in electronic forms and files) that are separate from personnel files. RMA must treat such information as a confidential medical record. RMA may maintain genetic information about an employee in the same file in which it maintains confidential medical information under the ADA.

Genetic information placed in personnel files before November 21, 2009, need not be removed. RMA will not be liable under the GINA regulations for the mere existence of the information in the file. However, the prohibitions on use and disclosure of genetic information apply to all

genetic information that meets the statutory definition, including genetic information requested, required, or purchased before November 21, 2009.

Genetic information that RMA receives orally need not be reduced to writing but may not be disclosed, except as permitted by 29 CFR part 1635.

Genetic information that RMA acquires through sources that are commercially and publicly available, as provided by 29 CFR 1635.8(b)(4), is not considered confidential genetic information but may not be used to discriminate against an individual.

29 CFR 1635.9(a).

n. Disclosure Permitted

RMA may disclose genetic information, regardless of how such information was obtained (except for genetic information acquired through commercially and publicly available sources), as follows:

1. To the employee (or family member if the family member is receiving genetic services) about whom the information pertains upon receipt of the employee's written request;
2. To an occupational or other health researcher if the research is conducted in compliance with the regulations and protections at 45 CFR part 46;
3. In response to an order of a court. RMA may disclose only the genetic information expressly authorized by the order. If the order was secured without the knowledge of the employee to whom the information refers, RMA shall inform the employee of the order and any genetic information that was disclosed pursuant to the order;
4. To government officials investigating compliance with Title II of GINA if the information is relevant to the investigation;
5. To the extent the information is disclosed in support of an employee's compliance with the certification provisions of the FMLA or certification requirements under state family and medical leave laws; or
6. To a federal, state, or local public health agency, only with regard to information about the manifestation of a disease or disorder that concerns a contagious disease that presents an imminent hazard of death or life-threatening illness, provided that the individual whose family member is the subject of the disclosure is notified of such disclosure.

29 CFR 1635.9(b).

o. Relationship to HIPAA Privacy Regulations

The GINA regulations do not apply to the use or disclosure of genetic information that is protected health information subject to regulation under the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

29 CFR 1635.9(c).

SEC. 10. BANKRUPTCY DISCRIMINATION

RMA shall not terminate the employment of, or discriminate with respect to employment against, an individual who is or has been a debtor under federal bankruptcy laws, or an individual associated with such debtor or bankrupt, solely because such debtor or bankrupt:

1. Is or has been a debtor under federal bankruptcy laws;
2. Has been insolvent before the commencement of a case under federal bankruptcy laws or during the case but before the grant or denial of a discharge; or
3. Has not paid a debt that is dischargeable in a case under federal bankruptcy laws.

11 U.S.C. 525(b).

SEC. 11. GRIEVANCE POLICIES

The Superintendent shall provide grievance procedure(s) concerning the following:

a. Section 504

That incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act.

34 CFR 104.7(b), 104.11.

b. Americans with Disabilities Act

Providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the ADA.

28 CFR 35.107, 35.140.

c. Title IX

Providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX.

34 CFR 106.8(c); North Haven Board of Education v. Bell, 456 U.S. 512 (1982).

SEC. 12. COMPLIANCE COORDINATOR

RMA shall designate at least one employee to coordinate its efforts to comply with Title IX, Section 504, the Age Act, and the ADA. The Superintendent shall notify all employees of the name, office address, and telephone number of the employee(s) so designated.

34 CFR 104.7(b), 104.11; 28 CFR 35.107, 35.140; 34 CFR 106.8(b).

PG-4.102 NONDISCRIMINATION POLICY

SEC. 1. NONDISCRIMINATION STATEMENT

RMA strictly prohibits discrimination, including harassment, against an employee on the basis of race, color, religion, gender, national origin, age, disability, genetic information, or any other legally protected classification. Retaliation against anyone involved in the complaint process is also a violation of RMA policy.

For purposes of this policy, "employee" includes current employees, volunteers and applicants for employment.

SEC. 2. GENERAL NONDISCRIMINATION POLICY

a) Prohibited Conduct

In this policy, the term "prohibited conduct" includes discrimination, harassment, and/or retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

i. *Prohibited Discrimination*

Discrimination is defined as conduct directed at an employee on the basis of race, color, religion, gender, national origin, age, disability, genetic information or any other basis prohibited by law, that adversely affects his or her employment.

ii. *Prohibited Harassment*

Prohibited harassment of an employee is defined as unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information where:

1. Enduring the offensive conduct becomes a condition of continued employment; or
2. The conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile or abusive.

Harassment may also occur when unwelcome conduct based on an employee's protected characteristic is so severe, persistent, or pervasive that the conduct:

1. Has the purpose or effect of unreasonably interfering with the employee's work performance;
2. Creates an intimidating, threatening, hostile, or offensive work environment; or
3. Otherwise adversely affects the employee's performance, environment, or employment opportunities.

Prohibited harassment may include, but is not limited to, offensive or derogatory language directed at another person's religious beliefs or practices, accent, skin color, gender identity, or

need for workplace accommodation; threatening or intimidating conduct; offensive jokes, name calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other stereotypes; or other types of aggressive conduct such as theft or damage to property.

iii. *Prohibited Gender-Based Harassment*

Gender-based harassment includes physical, verbal, or nonverbal conduct based on an employee's gender, the employee's expression of characteristics perceived as stereotypical for the employee's gender, or the employee's failure to conform to stereotypical notions of femininity or masculinity.

Examples of gender-based harassment, regardless of the employee's or alleged harasser's actual or perceived gender, may include offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; threatening or intimidating conduct; or other kinds of aggressive conduct such as theft or damage to property.

iv. *Prohibited Retaliation*

RMA expressly prohibits retaliation against an employee who makes a claim alleging to have experienced discrimination or harassment, or an employee who, in good faith, makes a report, serves as a witness, or otherwise participates in an investigation.

Examples of retaliation may include termination, refusal to hire, demotion, and denial of promotion. Retaliation may also include threats, unjustified negative evaluations, unjustified negative references, or increased surveillance.

v. *False Claims*

An employee who intentionally makes a false claim, offers false statements, or refuses to cooperate or participate in an investigation regarding discrimination or harassment is subject to discipline, up to and including termination of employment.

b) Reporting Prohibited Conduct (Non-Sexual Harassment)

An employee who believes that he or she has experienced prohibited conduct, or that another employee has experienced prohibited conduct, should immediately report the alleged conduct to the Principal or his or her supervisor, or to one of the school officials identified below.

In this policy, "prohibited conduct" includes discrimination, harassment, and/or retaliation, even if the behavior does not rise to the level of unlawful conduct.

The reporting procedures in this Section 2 will apply to all allegations of prohibited conduct other than allegations of harassment prohibited by Title IX. For allegations of sex-based harassment that, if proved, would meet the definition of sexual harassment under Title IX (including sexual harassment), see the procedures below at Section 3, Sexual Harassment Prohibited – Title IX Policy.

i. *Title IX Coordinator*

The Title IX Coordinator is responsible for coordinating RMA's efforts to comply with its responsibilities under Title IX with respect to discrimination based on sex, including sexual harassment. RMA designates the following person(s) to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended:

Christina Averill
Position: HR Coordinator
Address: 401 E. Sonterra Blvd. Suite 375, San Antonio, Texas 78258
Telephone: (830) 557-6181 ext. 3
Email address: TitleIXEmployeeCoord@rma-tx.org

ii. *ADA/Section 504 Coordinator*

RMA designates the following person to coordinate its efforts to comply with legal requirements concerning discrimination on the basis of disability:

Dr. Heidi Lambert
Position: Director of Special Populations
Address: 401 E. Sonterra Blvd. Suite 375, San Antonio, Texas 78258
Telephone: (346) 522-8685
email address: ADA/Section504Coordinator@rma-tx.org

iii. *Title VII/Age Coordinator*

RMA designates the following person to coordinate its efforts to comply with legal requirements concerning discrimination on the basis of race, color, national origin, and age:

Christina Averill
Position: HR Coordinator
Address: 401 E. Sonterra Blvd. Suite 375, San Antonio, Texas 78258
Telephone: (830) 557-6181 ext. 3
email address: hr@rma-tx.org

iv. *All Other Complaints*

Reports concerning prohibited conduct against the Title IX Coordinator, ADA/Section 504 Coordinator, and/or Title VII/Age Coordinator may be made to the Superintendent or designee. Reports concerning prohibited conduct against the Superintendent or designee may be directed to the Board.

c) Timely Reporting

Employees shall report prohibited conduct as soon as possible after the alleged act or knowledge of the alleged act.

Any supervisor who receives a report of prohibited conduct shall immediately inform the appropriate RMA official identified above.

d) Investigating Reports of Prohibited Conduct

RMA may request, but not insist upon, a written report describing any alleged prohibited conduct. If a report is made orally, the RMA official receiving the report shall reduce the report to writing.

After receiving a report or notice of a report, the appropriate Compliance Coordinator shall determine if the allegations, if proven, would constitute prohibited conduct under this policy. If so, the Compliance Coordinator shall immediately authorize or conduct an investigation, regardless of whether a criminal or regulatory investigation concerning the allegations is pending. The investigation may be conducted by the Compliance Coordinator or designee, or by a third party authorized by RMA, such as an attorney. The employee's Principal or supervisor shall be notified of the investigation, if appropriate.

The investigation may consist of personal interviews of individuals with knowledge of the allegations, including the person making the report, and the person against whom the report is filed. The investigation may also include consideration of documents or other information concerning the allegations.

If appropriate, RMA shall take prompt action to prevent prohibited conduct from occurring during the course of the investigation.

i. *Concluding the Investigation*

Investigations of prohibited conduct should be completed as soon as reasonably possible and appropriate under the circumstances. The investigator shall prepare a written report of the investigation, and provide the report to the RMA official overseeing the investigation.

ii. *School Action*

If an investigation indicates that prohibited conduct occurred, RMA shall promptly take appropriate disciplinary or corrective action to address the conduct.

RMA may also take action following an investigation, even if the alleged conduct did not rise to the level of prohibited or unlawful conduct.

iii. *Confidentiality*

RMA shall respect the privacy of all individuals involved in a report or investigation of prohibited conduct. Limited disclosures may be necessary.

iv. *Appeal*

A complainant who is dissatisfied with the outcome of an investigation may appeal through Board Policy PG-XX (Employee Complaints and Grievances – General).

e) Records Retention

Copies of reports alleging prohibited conduct, investigation reports, and other related records shall be maintained for at least three years.

SEC. 3. SEXUAL HARASSMENT PROHIBITED – TITLE IX POLICY

a) Definitions for Title IX Terms

i. *Actual Knowledge*

"Actual knowledge" means notice of sexual harassment or allegations of sexual harassment to RMA's Title IX Coordinator or any RMA official who has authority to institute corrective measures on behalf of RMA, or to any employee of an elementary and secondary school. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of RMA with actual knowledge is the respondent (as that term is defined below). The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of RMA. "Notice" as used in this definition includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator.

34 C.F.R. 106.30(a).

ii. *Complainant*

"Complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

34 C.F.R. 106.30(a).

iii. *Consent*

"Consent" is not currently defined by the Title IX regulations, nor do the regulations require RMA to adopt a particular definition of consent with respect to sexual assault.

34 C.F.R. 106.30(a).

iv. *Deliberate Indifference Standard*

If RMA has actual knowledge of sexual harassment in an education program or activity of RMA against a person in the United States, it must respond promptly in a manner that is not deliberately indifferent. RMA is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances. *34 C.F.R. 106.44*.

v. *Education Program or Activity*

For purposes of this Title IX policy, "education program or activity" includes locations, events, or circumstances over which RMA exercised substantial control over both the respondent and the context in which sexual harassment occurs.

34 C.F.R. 106.44.

vi. *Formal Complaint*

"Formal complaint" means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that RMA investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in RMA's education program or activity. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by email, by using the contact information for the Title IX Coordinator provided by RMA, and by any additional method designated by RMA. As used in this definition, the term "document filed by a complainant" means a document or electronic submission (such as by email or through an online portal provided for this purpose by RMA) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party to the Title IX formal complaint, and must comply with the requirements of the Title IX formal process, including the informal resolution process.

34 C.F.R. 106.30(a).

vii. *Respondent*

"Respondent" means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

34 C.F.R. 106.30(a).

viii. *Sexual Harassment*

"Sexual harassment" means conduct on the basis of sex that satisfies one or more of the following:

An employee of RMA conditioning the provision of an aid, benefit, or service of RMA on an individual's participation in unwelcome sexual conduct;
Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to RMA's education program or activity; or

"Sexual assault" as defined in 20 U.S.C. 1091(f)(6)(A)(v); "dating violence" as defined in 34 U.S.C. 12291(a)(10); "domestic violence" as defined in 34 U.S.C. 12291(a)(8); or "stalking" as defined in 34 U.S.C. 12291(a)(30).

34 C.F.R. 106.30(a).

ix. *Supportive Measures*

"Supportive measures" means non-disciplinary, nonpunitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to RMA's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or RMA's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. RMA must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair RMA's ability to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

34 C.F.R. 106.30(a).

b) Requirement to Designate Title IX Coordinator

RMA must designate at least one employee as a Title IX Coordinator to coordinate RMA's efforts to comply with its requirements under Title IX.

c) Notification of Title IX Policy

RMA must notify applicants for admission and employment, students, parents or legal guardians of students, and all professional organizations holding professional agreements with RMA of the name or title, office address, email address, and telephone number of the employee or employees designated as the Title IX Coordinator.

RMA must also notify the individuals noted above that RMA does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required under Title IX not to discriminate in such a manner. The notification must also state that the requirement not to discriminate in the education program or activity extends to admission and employment, and that inquiries about the application of Title IX to RMA may be referred to the designated Title IX Coordinator, to the assistant secretary for civil rights of the Department of Education, or both.

34 C.F.R. 106.8(a), (b)(1).

d) Handbook Information and Website Postings

RMA must prominently display the contact information required to be listed for the Title IX Coordinator and the nondiscrimination policy described in "Notification of Title IX Policy," above, on the RMA website, if any, and in the Employee Handbook and Student / Parent Handbook.

RMA may not use or distribute a publication stating that RMA treats applicants, students, or employees differently on the basis of sex except when such treatment is permitted by Title IX.

34 C.F.R. 106.8(b)(2).

e) Reporting Sex Discrimination / Sexual Harassment

Any person may report sex discrimination, including sexual harassment, whether or not the reporting person is the person alleged to be the victim of conduct that may constitute sex discrimination or sexual harassment. Reports may be made in person, by mail, by telephone, or by email through the contact information listed for RMA's Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Reports may be made at any time (including during nonbusiness hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator.

34 C.F.R. 106.8(a).

f) Complaint Procedures

RMA must adopt and publish procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by Title IX, and a formal Title IX complaint process that complies with applicable federal regulations.

RMA must provide notice to the individuals identified in Sec. 3(c) above of the school's procedures and Title IX formal complaint process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how RMA will respond.

The requirements of this provision apply only to sex discrimination occurring against a person in the United States.

34 C.F.R. 106.8(c)-(d).

g) Response by Title IX Coordinator

The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, , inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

i. <u>Required Supportive Measures</u>

RMA's response must treat complainants and respondents equitably by offering supportive measures and by following a grievance process that complies with the Title IX regulations (*see* Process for Formal Title IX Complaint, Sec. 3(h) below) before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.

34 C.F.R. 106.44(a).

ii. Response to Formal Complaint

In response to a formal complaint, RMA must follow a process that complies with the Title IX regulations (*see* Process for Formal Title IX Complaint, Sec. 3(h) below).

34 C.F.R. 106.44(b)(1).

iii. Emergency Removals

RMA is not precluded from removing a respondent from its education program or activity on an emergency basis, provided that RMA:

Undertakes an individualized safety and risk analysis;

1. Determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal; and
2. Provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

This may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

34 .F.R. 106.44(c).

iv. Administrative Leave

RMA is not prohibited from placing a nonstudent employee respondent on administrative leave during the pendency of a Title IX formal complaint. This does not modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

34 C.F.R. 106.44(d).

h) Process for Title IX Formal Complaint

For purposes of addressing formal complaints of sexual harassment, RMA's process must comply with the requirements listed in this section. Any provisions, rules, or practices other than those required by the Title IX regulations or this policy that RMA adopts as part of its process for handling formal complaints of sexual harassment must apply equally to both parties.

34 C.F.R. 106.45(b).

RMA's Title IX formal complaint process must:

1. Treat complainants and respondents equally by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a process that complies with the Title IX regulations before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. Remedies must be designed to restore or preserve equal access to RMA's education program or activity. Such remedies may include the same individualized services described as supportive measures; however, remedies need not be non-disciplinary or nonpunitive and need not avoid burdening the respondent.
2. Require an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness.
3. Require that any individual designated by RMA as a Title IX Coordinator, investigator, decision-maker, or any person designated by RMA to facilitate an informal resolution process, not to have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. RMA must ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process receive training on the definition of sexual harassment, the scope of RMA's education program or activity, how to conduct an investigation and Title IX formal complaint process (including hearings, appeals, and informal resolution processes, as applicable), and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. RMA must ensure that decision-makers receive training on any technology to be used at a live hearing, if any, and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. RMA must also ensure that investigators receive training on relevance to create an investigative report that fairly summarizes relevant evidence. Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.
4. Include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Title IX formal complaint process.
5. Include reasonably prompt timeframes for concluding the grievance process, including reasonably prompt timeframes for filing and resolving appeals and informal resolution processes if RMA offers informal resolution processes, and a process that allows for the temporary delay of the Title IX formal complaint process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

6. Describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that RMA may implement following any determination of responsibility.
7. State whether the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard or the clear and convincing evidence standard, apply the same standard of evidence for formal complaints against students as for formal complaints against employees, including faculty, and apply the same standard of evidence to all formal complaints of sexual harassment.
8. Include the procedures and permissible bases for the complainant and respondent to appeal.
9. Describe the range of supportive measures available to complainants and respondents.
10. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally-recognized privilege, unless the person holding such privilege has waived the privilege.

34 .F.R. 106.45(b)(1).

i. Notice of Allegations

Upon receipt of a formal complaint, RMA must provide the following written notice to the parties who are known:

1. Notice of RMA's Title IX formal complaint process, including any informal resolution process.
2. Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include:
    a. The identities of the parties involved in the incident, if known;
    b. The conduct allegedly constituting sexual harassment; and
    c. The date and location of the alleged incident, if known.

The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Title IX formal complaint process. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney and may inspect and review evidence. The written notice must inform the parties of any provision in RMA's Code of Conduct that prohibits knowingly making false statements or knowingly submitting false information during the Title IX formal complaint process.

If, in the course of an investigation, RMA decides to investigate allegations about the complainant or respondent that are not included in the notice of allegations, RMA must provide notice of the additional allegations to the parties whose identities are known.

34 .F.R. 106.45(b)(2).

ii. Dismissal of Formal Complaint

RMA must investigate the allegations in a formal complaint.

If the conduct alleged in the formal complaint would not constitute sexual harassment even if proved, did not occur in RMA's education program or activity, or did not occur against a person in the United States, then RMA must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX; such a dismissal does not preclude action under another provision of RMA's Code of Conduct.

RMA may dismiss the formal complaint or any allegations therein if, at any time during the investigation or hearing (if applicable):

A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
The respondent is no longer enrolled or employed by RMA; or
Specific circumstances prevent RMA from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal of a formal complaint, RMA must promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties.

34 .F.R. 106.45(b)(3).

iii. Consolidation of Formal Complaints

RMA may consolidate formal complaints as to allegations of sexual harassment against more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a Title IX formal complaint process involves more than one complainant or more than one respondent, references in this section to the singular "party," "complainant," or "respondent" include the plural, as applicable.

34 .F.R. 106.45(b)(4).

iv. Investigating Formal Complaints

When investigating a formal complaint and throughout the Title IX formal complaint process, RMA must:

1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on RMA and not on the parties, provided that RMA cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless RMA obtains that party's voluntary, written

consent to do so for a Title IX formal complaint. If a party is not an "eligible student," as defined in the FERPA regulations, RMA must obtain the voluntary, written consent of a "parent," as defined in the FERPA regulations.

2. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
3. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
4. Provide the parties with the same opportunities to have others present during any Title IX formal complaint proceeding, including the opportunity to be accompanied to any related or proceeding by the advisor of their choice, who may be, but is not required to be, and attorney, and not limit the choice or presence of the advisor for either the complainant or respondent in any meeting or Title IX formal complaint proceeding; however, RMA may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings (if applicable), investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
6. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which RMA does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, RMA must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least ten days to submit a written response, which the investigator will consider prior to completion of the investigative report. RMA must make all such evidence subject to the parties' inspection and review available at any hearing (if applicable) to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
7. Create an investigative report that fairly summarizes relevant evidence and, at least ten days prior to a hearing (if a hearing is required or otherwise provided) or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

34 .F.R. 106.45(b)(5).

v. <u>Hearings</u>

RMA's Title IX formal complaint process may, but need not, provide for a hearing. With or without a hearing, after RMA has sent to the investigate report to the parties and before reaching a determination regarding responsibility, the decision-maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. With or without a hearing, questions and evidence about the

complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

34 .F.R. 106.45(b)(6)(ii).

vi. Determination Regarding Responsibility

The decision-maker(s), who cannot be the same person(s) as the Title IX Coordinator or the investigator(s), must issue a written determination regarding responsibility. To reach this determination, RMA must apply the same standard of evidence described at "Process for Title IX Formal Complaint, Sec. 3(h) above. The written determination must include:

Identification of the allegations potentially constituting sexual harassment.
A description of the procedural steps taken from receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held (if any).
Findings of fact supporting the determination.
Conclusions regarding the application of RMA's Code of Conduct to the facts.
A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions RMA imposes on the respondent, and whether remedies designed to restore or preserve equal access to RMA's education program or activity will be provided by RMA to the complainant.
RMA's procedures and permissible bases for the complainant and respondent to appeal.

RMA must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that RMA provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

34 C.F.R. 106.45(b)(7)(i)-(iii).

The Title IX Coordinator is responsible for effective implementation of any remedies identified in a determination regarding responsibility.

34 .F.R. 106.45(b)(7)(iv).

vii. Appeals

RMA must offer both parties an appeal from a determination regarding responsibility, and from RMA's dismissal of a formal complaint or any allegations therein, on the following bases:

1. Procedural irregularity that affected the outcome of the matter;

2. New evidence that was not reasonably available at the time the determination on responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

RMA may offer an appeal equally to both parties on additional bases.

As to all appeals, RMA must:

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
3. Ensure that the decision-maker(s) for the appeal complies with standards regarding conflict of interest and bias found in the Title IX regulations (as discussed in "Process for Formal Title IX Complaint," Sec. 3(h) above);
4. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
5. Issue a written decision describing the result of the appeal and the rationale for the result; and
6. Provide the written decision simultaneously to both parties.

34 .F.R. 106.45(b)(8).

viii. <u>Informal Resolution</u>

RMA may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with Title IX. Similarly, RMA may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility, RMA may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication.

With respect to informal resolution, RMA must provide written notice to the parties disclosing:

1. The allegations;
2. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
3. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

RMA also must obtain the parties' voluntary, written consent to the informal resolution process.

RMA cannot offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

34 .F.R. 106.45(b)(9).

ix. <u>Recordkeeping</u>

RMA must maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to RMA's education program or activity;
2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and
4. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. RMA must make these training materials publicly available on its website or, if RMA does not maintain a website, RMA must make these materials available upon request for inspection by members of the public.

For each response required under "Response by Title IX Coordinator," Sec. 3(g) above, RMA must create and maintain for a period of seven years records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, RMA must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to RMA's education program or activity.

If RMA does not provide a complainant with supportive measures, RMA must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit RMA in the future from providing additional explanations or detailing additional measures taken.

34 .F.R. 106.45(b)(10).

i) Retaliation Prohibited

Neither RMA nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX.

Intimidation, threats, coercion, or discrimination, including charges against an individual for Code of Conduct violations that do not involve sex discrimination or sexual harassment, but arise

out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

Complaints alleging retaliation may be filed according to the "Process for Formal Title IX Complaint," Sec. 3(h) above.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited by Title IX.

Charging an individual with a Code of Conduct violation for making a materially false statement in bad faith in the course of a Title IX formal complaint proceeding does not constitute retaliation prohibited by Title IX provided, however, that a determination regarding responsibility alone is not sufficient to conclude that any party made a materially false statement in bad faith.

34 C.F.R. 106.71(a)-(b).

j) Confidentiality

RMA must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and nay witness, except as may be permitted by the Family Educational Rights and Privacy Act ("FERPA") statute, 20 U.S.C. 1232g, or FERPA regulations, 34 C.F.R. part 99, or as required by law, or to carry out the purposes of the Title IX regulations at 34 C.F.R. part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

34 C.F.R. 106.71(a).

k) Relationship to General Non-Discrimination Policy

The formal complaint investigation and resolution process outlined above in Sec. 3(h) applies only to formal complaints alleging sexual harassment under Title IX, but not to complaints alleging sex discrimination that do not constitute sexual harassment. Complaints of sex discrimination that do not constitute sexual harassment may be filed with the Title IX Coordinator and will be handled under RMA's general process for receiving reports of suspected discrimination and harassment, as outlined in Section 2 above.

SEC. 4. DISTRIBUTION OF POLICY

The Superintendent or designee shall ensure that this policy and accompanying procedures are made available to all employees through the RMA Employee Handbook.

SEC. 5. LIABILITY FOR HARASSMENT

RMA accepts no liability for harassment of any student or employee by another employee. Any RMA employee who is found to have engaged in prohibited conduct is subject to disciplinary action, up to and including termination.

RMA does not consider conduct in violation of this policy to be within the course and scope of employment or the direct consequences of the discharge of one's duties. Accordingly, to the extent permitted by law, RMA reserves the right not to provide a defense or pay damages assessed against employees for conduct in violation of this policy.

PG-4.103 WHISTLEBLOWER PROTECTION

SEC. 1. DEFINITIONS

"Employee" means an employee or appointed officer who is paid to perform services for RMA. This definition does not include independent contractors.

"Law" means a state or federal statute, an ordinance of a local governmental entity, or a rule adopted under a statute or ordinance.

"Personnel action" means an action that affects an employee's compensation, promotion, demotion, transfer, work assignment, or performance evaluation.

A "good faith" belief that a violation of law occurred means that:

1. An employee believed the conduct reported was a violation of law; and
2. The employee's belief was reasonable in light of the employee's experience and training.

A "good faith" belief that a law enforcement authority is an appropriate one means:

1. The employee believed the governmental entity was authorized to
2. Regulate under or enforce the law alleged to be violated in the report; or
3. Investigate or prosecute a violation of criminal law; and
4. The employee's belief was reasonable in light of the employee's experience and training.

SEC. 2. WHISTLEBLOWER COMPLAINTS

An employee who alleges a violation of whistleblower protection may take legal action against RMA as described in Chapter 554 of the Texas Government Code. Before taking such action, an employee must initiate a grievance under PG-XX (Employee Complaints and Grievances - General).

The employee must invoke the grievance process under PG- XX no later than the 90th day after the date on which the alleged suspension, termination, or other adverse employment action occurred or was discovered by the employee through reasonable diligence. RMA may shorten the timelines outlined in PG-XX (Employee Complaints and Grievances - General) in order to

allow the Board to make a final decision concerning the grievance within 60 days of initiation of the grievance.

If the Board does not render a final decision before the 61st day after grievance procedures are initiated, the employee may elect to:

1. Exhaust the grievance process under PG-XX (Employee Complaints and Grievances - General), in which case the employee must file legal action not later than the 30th day after the date those procedures are exhausted to obtain relief under Chapter 554 of the Texas Government Code; or
2. Terminate the grievance process under PG-XX (Employee Complaints and Grievances - General) and file legal action within the timelines set by sections 554.005 and 554.006 of the Texas Government Code.

Gov't Code 554.005, .006.

SEC. 3. WHISTLEBLOWER PROTECTIONS

Neither the Board nor its agents shall suspend or terminate the employment of, or take other adverse personnel action against, an employee who in good faith reports a violation of law by RMA or another RMA employee to an appropriate law enforcement authority.

Gov't Code 554.002.

SEC. 4. NOTICE OF RIGHTS

RMA shall inform employees of their rights regarding whistleblower protection by posting a sign in a prominent location in the workplace.

Gov't Code 554.009.

PG-4.201 EMPLOYMENT PRACTICES

SEC. 1. PERSONNEL DUTIES

The Superintendent or designee shall define the qualifications, duties, and responsibilities of all positions and shall ensure that job descriptions are current and accessible to employees and supervisors.

SEC. 2. POSTING VACANCIES

The Superintendent or designee shall establish guidelines for advertising employment opportunities and posting notices of vacancies, which shall advance the commitment of RMA to equal opportunity employment and to recruit well-qualified candidates. Current RMA employees may apply for any vacancy for which they qualify.

SEC. 3. APPLICATIONS

All applicants shall complete the application form supplied by RMA. Information on applications shall be confirmed before hiring or as soon as possible thereafter.

SEC. 4. NEW HIRES

a) I-9 Forms

The Superintendent or designee shall ensure that an employee properly completes Section 1 ("Employee Information and Verification'') on Form I-9 at the time of hire.

RMA must verify employment eligibility, pursuant to the Immigration Reform and Control Act, and complete Form I-9 by the following dates:

1. Within three business days of hiring. If RMA hires an individual for employment for a duration of less than three business days, the Superintendent or designee must verify employment at the time of hire.

2. RMA shall not be deemed to have hired an individual if the individual is continuing in his or her employment and has a reasonable expectation of employment at all times.

1. When RMA rehires an individual, the Superintendent or designee may, in lieu of completing a new I-9, inspect a previously completed I-9 executed within three years of the date of rehire, to determine whether the individual is still eligible to work.
2. For an individual whose employment authorization expires, not later than the date of expiration.

8 C.F.R. 274a.2(b)(1)(ii,) (iii), (vii), (viii).

b) New Hire Reporting

RMA shall furnish to the Directory of New Hires (Texas Attorney General's Office) a report that contains the name, address, and social security number of each newly hired employee. The report shall also contain RMA's name, address, and employer identification number.

RMA may also provide, at its option, the employee's date of hire, date of birth, expected salary or wages, and RMA's payroll address for mailing of notice to withhold child support.

RMA shall report new hire information on a Form W-4 or an equivalent form, by first class mail, telephonically, electronically, or by magnetic media, as determined by RMA and in a format acceptable to the attorney general.

c) Deadline

New hire reports are due:

1. Not later than 20 calendar days after the date RMA hires the employee; or
2. In the case of RMA transmitting reports magnetically or electronically, by two monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart.

New hire reports shall be considered timely if postmarked by the due date or, if filed electronically, upon receipt by the agency.

42 U.S.C. 653a(b), (c); Family Code 234.101–.105; 1 TAC 55, Subch. I.

SEC. 5. EXIT INTERVIEWS AND EXIT REPORTS

An exit interview shall be conducted, if possible, and an exit report shall be prepared for every employee who leaves employment with RMA.

SEC. 6. SOCIAL SECURITY NUMBERS

It shall be unlawful for RMA to deny to any individual any right, benefit, or privilege provided by law because of the individual's refusal to disclose his or her social security number.

a) Exceptions

The above provision does not apply to:

1. Any disclosure that is required by federal statute. The United States Internal Revenue Code provides that the social security number issued to an individual for purposes of federal income tax laws shall be used as the identifying number for taxpayers;
2. Any disclosure to RMA maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted before such date to verify the identity of an individual; or
3. Any use for the purposes of establishing the identity of individuals affected by any tax, general public assistance, driver's license, or motor vehicle registration law within RMA's jurisdiction.

b) Statement of Uses

Upon disclosing an employee's social security number, RMA shall inform that employee whether the disclosure is mandatory or voluntary, by what statutory authority such number is solicited, and what uses will be made of it.

Privacy Act of 1974, Pub. L. No. 93-579, Sec. 7, 88 Stat. 1896, 1897 (1974).

SEC. 7. EMPLOYMENT ASSISTANCE PROHIBITED

Upon receipt of Title I funds, the Superintendent shall adopt regulations that prohibit any individual who is a RMA employee, contractor, or agent from assisting a RMA employee in obtaining a new job, apart from the routine transmission of administrative and personnel files, if

the individual or RMA knows, or has probable cause to believe, that such school employee engaged in sexual misconduct regarding a minor or student in violation of the law.

This requirement shall not apply if the information giving rise to probable cause has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct; and has been properly reported to any other authorities as required by federal, state, or local law, including Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and the implementing regulations under Part 106 of Title 34, Code of Federal Regulations, or any succeeding regulations; and:

1. The matter has been officially closed or the prosecutor or police with jurisdiction over the alleged misconduct has investigated the allegations and notified RMA officials that there is insufficient information to establish probable cause that the school employee engaged in sexual misconduct regarding a minor or student in violation of the law;
2. The school employee has been charged with and acquitted or otherwise exonerated of the alleged misconduct; or
3. The case or investigation remains open and there have been no charges filed against, or indictment of, the school employee within four years of the date on which the information was reported to a law enforcement agency.

20 U.S.C 7926.

PG-4.202 PRE-EMPLOYMENT CREDENTIALS & EMPLOYEE RECORDS

SEC. 1. MINIMUM QUALIFICATIONS FOR PRINCIPALS AND TEACHERS

A person employed by RMA as a Principal or teacher must hold at least a baccalaureate degree. Education Code 12.129. *19 TAC 100.1212(a)*.

A person may be employed as a teacher for a noncore vocational course without holding a baccalaureate degree if Richard Milburn Academy serves youth referred to or placed in a residential trade center by a local or state agency if the person has:

1. demonstrated subject matter expertise related to the subject taught, such as professional work experience; formal training and education; holding a relevant active professional industry license, certification, or registration; or any combination of work experience, training and education, and industry license, certification, or registration; and
2. received at least 20 hours of classroom management training, as determined by the governing body of the open-enrollment charter school. Documentation of the training is to be maintained locally and provided to the Texas Education Agency ("TEA") within 10 business days upon request.

19 TAC 100.1212(b).

Special education teachers, prekindergarten teachers, bilingual teachers, and teachers of English as a second language must be certified in the fields in which they are assigned to teach as required by state and/or federal law. *19 TAC 100.1212(c)*.

All persons employed as paraprofessionals must be certified as required to meet state and/or federal law. *19 TAC 100.1212(d)*.

Richard Milburn Academy shall obtain from the Department of Public Safety (DPS), prior to the hiring of personnel and at least every third year thereafter, all criminal history record information maintained by DPS that the charter school is authorized to obtain. *19 TAC 100.1212(e)*.

SEC. 2. PRE-EMPLOYMENT AFFIDAVIT

An applicant for employment as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, school counselor, audiologist, occupational therapist, physical therapist, physician, nurse, school psychologist, associate school psychologist, licensed professional counselor, marriage and family therapist, social worker, or speech language pathologist must submit, using a form adopted by the Texas Education Agency, a pre-employment affidavit disclosing whether the applicant has ever been charged with, adjudicated for, or convicted of having an inappropriate relationship with a minor.

An applicant who answers affirmatively concerning an inappropriate relationship with a minor must disclose in the affidavit all relevant facts pertaining to the charge, adjudication, or conviction, including whether the charge was determined to be true or false.

An applicant is not precluded from being employed based on a disclosed charge if RMA determines based on the information disclosed in the affidavit that the charge was false.

A determination that an employee failed to disclose information required to be disclosed by an applicant is grounds for termination of employment.

Education Code 21.009.

SEC. 3. TEA REGISTRY OF PERSONS NOT ELIGIBLE FOR EMPLOYMENT IN PUBLIC SCHOOLS

RMA shall discharge or refuse to hire any person listed on the registry of persons who are not eligible to be employed by a school district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement, as such registry is maintained and published by the TEA. Education Code 22.092(b) ; *19 TAC 100.1212(f)*.

SEC. 4. NOTICE TO PARENTS – QUALIFICATIONS

a) Notice Requirements – State Law

The Superintendent or designee shall provide to the parent or guardian of each student enrolled in RMA written notice of the qualifications of each teacher employed by RMA.

Education Code 12.130.

b) Notice Requirements – Federal Law

As a condition of receiving federal assistance under Title I, Part A of the Elementary and Secondary Education Act ("ESEA"), RMA shall, at the beginning of each school year, notify the parents of each student attending any school receiving Title I, Part A funds that parents may request, and RMA will provide the parent on request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including at a minimum, the following:

1. Whether a child's teacher(s):
    a. have met state qualification and licensing criteria for their grade levels and subject areas;
    b. is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived; and
    c. is teaching in the field of discipline of the certification of the teacher.
2. Whether a child receives services from paraprofessionals and, if so, their qualifications.

20 USC 6312(e)(1)(A).

Additionally, RMA will, upon parent request, provide to each parent of a child who attends any school receiving Title I, Part A funds with:

1. Information on the level of achievement and academic growth of the student, if applicable and available, on each required state academic assessment; and
2. Timely notice that the student has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable state certification or licensure requirements at the grade level and subject area in which the teacher has been assigned.

20 USC 6312(e)(1)(B).

SEC. 5. ACCESS TO EMPLOYEE RECORDS

Custodians of personnel records shall adhere to the requirements of the Texas Public Information Act ("TPIA").

Information in a personnel file is excepted from the requirements of the TPIA if the disclosure would constitute a clearly unwarranted invasion of personal privacy.

A RMA employee shall choose whether to allow public access to information in RMA's custody that relates to the employee's home address, home telephone number, emergency contact information, Social Security number, or that reveals whether the person has family members.

Gov't Code 552.024, 552.102(a).

The Superintendent shall develop procedures for employees to opt-out of having the above information released.

All information in the personnel file of a RMA employee shall be made available to that employee or the employee's designated representative as public information is made available under the TPIA. An employee or an employee's authorized representative has a special right of access, beyond the right of the general public, to information held by RMA that relates to the employee and that is protected from public disclosure by laws intended to protect the accessing employee's privacy interests. RMA may assert as grounds for denial of access other provisions of the TPIA or other laws that are not intended to protect the accessing employee's privacy interests. *Gov't Code 552.102(a)*.

PG-4.203 CRIMINAL HISTORY AND CREDIT REPORTS

SEC. 1. DEFINITIONS

"Criminal history clearinghouse" ("Clearinghouse") means the electronic clearinghouse and subscription service established by the Department of Public Safety ("DPS") to provide criminal history record information to persons entitled to receive that information and to provide updates to such information. A person who is the subject of the criminal history record information requested must consent to the release of the information.

Gov't Code 411.0845(a), (h).

"Criminal history record information" (the "CHRI") means information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, information, and other formal criminal charges and their dispositions. The term does not include:

1. Identification information, including fingerprint records, to the extent that the identification information does not indicate involvement of the person in the criminal justice system; or

2. Driving record information maintained by the department under Subchapter C, Chapter 521, Transportation Code.

Gov't Code 411.082(2).

"National criminal history record information" ("NCHRI") means criminal history record information obtained from DPS under Government Code Chapter 411, Subchapter F, and the Federal Bureau of Investigation (the "FBI") under Government Code 411.087.

Education Code 22.081(2).

SEC. 2. CERTIFIED PERSONS

The State Board for Educator Certification (the "SBEC") shall review the NCHRI of a person who has not previously submitted fingerprints to the department or been subject to a national criminal history record information review who is an applicant for or holder of a certificate and who is employed by or is an applicant for employment by RMA.

Education Code 22.0831(b), (c).

SEC. 3. NONCERTIFIED EMPLOYEES

This section applies to a person who is not an applicant for or holder of a certificate from the SBEC and who, on or after January 1, 2008, is offered employment by:

1. RMA; or
2. A shared services arrangement, if the employee's or applicant's duties are or will be performed on school property or at another location where students are regularly present.

For noncertified employees of RMA or a shared services arrangement hired before January 1, 2008, see Section 7 (All Other Employees) below.

a) Information to DPS and the Texas Education Agency (the "TEA")

Before or immediately after employing or securing the services of a person subject to this section, RMA shall send or ensure that the person sends to the DPS information that the DPS requires for obtaining NCHRI, which may include fingerprints and photographs.

RMA shall provide the TEA with the name of a person to whom this section applies. The TEA shall examine the CHRI of the person and notify RMA if the person may not be hired or must be discharged under Education Code 22.085.

b) Employment Pending Review

After the required information is submitted, the person may begin employment, but that employment is conditional upon the review and acceptability of that person's CHRI by RMA and by the TEA. If RMA or the TEA makes a determination that the employee or applicant is ineligible for employment, the employee must be terminated.

c) Criminal History

RMA shall obtain all CHRI that relates to a person subject to this section through the Clearinghouse and shall subscribe to the CHRI of that person. RMA may require the person to pay any fees related to obtaining the CHRI.

Education Code 22.0833; 19 TAC 153.1109(d).

SEC. 4. SUBSTITUTE TEACHERS

This section applies to a person who is a substitute teacher for RMA or a shared services arrangement. For purposes of this policy, a "substitute teacher" is a teacher who is on call or on a list of approved substitutes to replace a regular teacher and has no regular or guaranteed hours. A substitute teacher may be certified or noncertified.

a) Information to DPS and TEA

RMA shall send or ensure that a person to whom this section applies sends to the DPS information required for obtaining NCHRI, which may include fingerprints and photographs.

RMA shall provide the TEA with the name of a person to whom this section applies. The TEA shall examine the CHRI and certification records of the person and notify RMA if the person:

1. May not be hired or must be discharged as provided by Education Code 22.085; or
2. May not be employed as a substitute teacher because the person's educator certification has been revoked or is suspended.

b) Employment Pending Review

After the required information is submitted, the person may begin employment, but that employment is conditional upon the review of that person's CHRI by RMA and by the TEA. If RMA or the TEA makes a determination that the employee or applicant is ineligible for employment, the employee must be terminated.

c) Criminal History

RMA shall obtain all CHRI that relates to a person to whom this section applies through the Clearinghouse. RMA may require the person to pay any fees related to obtaining the CHRI.

Education Code 22.0836; 19 TAC 153.1101(5), 153.1111(d).

SEC. 5. STUDENT TEACHERS AND VOLUNTEERS

This section applies to:

1. A person participating in an internship consisting of student teaching to receive a teaching certificate; and
2. A volunteer or person who has indicated, in writing, an intention to serve as a volunteer with RMA.

a) Criminal History

A person may not perform any student teaching or volunteer duties until:

1. The student teacher or volunteer has provided to RMA a driver's license or another form of identification containing the person's photograph issued by an entity of the United States government; and
2. RMA has obtained from the DPS all CHRI that relates to the student teacher or volunteer. RMA may also obtain CHRI relating to a student teacher or volunteer from any other law enforcement agency, criminal justice agency, or private consumer reporting agency.

RMA may require a student teacher or volunteer to pay any costs related to obtaining the CHRI.

b) Exception

The criminal history requirements above do not apply to a person who volunteers or is applying to volunteer with RMA if the person:

1. Is the parent, guardian, or grandparent of a child who is enrolled in RMA;
2. Will be accompanied by a RMA employee while on a RMA campus; or
3. Is volunteering for a single event on RMA campus.

Education Code 22.0835.

SEC. 6. COORDINATION OF EFFORTS

RMA may coordinate with the TEA, the SBEC, and a shared services arrangement as necessary to ensure that criminal history reviews are not unnecessarily duplicated.

Education Code 22.0833(h).

SEC. 7. ALL OTHER EMPLOYEES

RMA shall obtain CHRI that relates to a person who is not subject to a NCHRI review and who is an employee of:

1. RMA; or
2. A shared services arrangement, if the employee's duties are performed on school property or at another location where students are regularly present.

RMA may obtain the CHRI from:

1. The DPS;
2. A law enforcement or criminal justice agency; or
3. A private consumer reporting agency.

Education Code 22.083(a), (a-1), (c); Gov't Code 411.097.

SEC. 8. CONFIDENTIALITY OF CRIMINAL HISTORY RECORDS

CHRI that RMA obtains from the DPS, including any identification information that could reveal the identity of a person about whom the CHRI is requested and information that directly or indirectly indicates or implies involvement of a person in the criminal justice system:

1. Is for the exclusive use of RMA; and
2. May be disclosed or used by RMA only if, and only to the extent, disclosure is authorized or directed by a statute, rule, or order of a court of competent jurisdiction.

For purposes of these confidentiality provisions, "criminal history record" information does not refer to any specific document provided by the DPS, but to the information contained, wholly or partly, in a document's original form or any subsequent form or use.

RMA or an individual may not confirm the existence or non-existence of CHRI to any person who is not eligible to receive the information. *Gov't Code 411.084.*

CHRI obtained by RMA, in the original form or any subsequent form, may not be released to any person except the individual who is the subject of the information, the TEA, the SBEC, or by

court order. The CHRI is not subject to disclosure under Government Code Chapter 552 (Public Information Act).

A RMA employee may request from the Human Resources Department a copy of any CHRI related to that employee that RMA has obtained from the DPS. RMA may charge a fee to provide the information, not to exceed the actual cost of copying the CHRI.

Gov't Code 411.097(d), (f).

RMA generally will not print out CHRI, unless necessary for conducting a review of records or if seeking legal advice concerning eligibility for employment following receipt of a CHRI report.

Any RMA employee who violates confidentiality protocols concerning access to, review of, or confidentiality of CHRI is subject to discipline, up to and including termination.

a) Destroying CHRI

RMA shall destroy CHRI obtained from the DPS on the earlier of:

1. The date the information is used for the authorized purpose; or
2. The first anniversary of the date the information was originally obtained.

Gov't Code 411.097(d)(3).

This process also applies if it is necessary to print out CHRI.

SEC. 9. CONFIDENTIALITY OF CHRI INFORMATION

RMA may not release information collected about a person in order to obtain CHRI, including the person's name, address, phone number, social security number, driver's license number, other identification number, and fingerprint records, except:

1. To comply with Government Code Chapter 22, Subchapter C (criminal records);
2. By court order; or
3. With the consent of the person who is the subject of the information.

In addition, the information is not subject to disclosure under Government Code Chapter 522 (Public Information Act). RMA shall destroy the information not later than the first anniversary of the date the information is received.

Education Code 22.08391.

SEC. 10. SBEC NOTIFICATION

The Superintendent or designee shall promptly notify the SBEC in writing by filing a report with the TEA staff within seven calendar days of the date the Superintendent obtains or has knowledge of information indicating that an applicant for or holder of a certificate issued by the SBEC has a reported criminal history and RMA obtained information about the educator's criminal record by a means other than by the DPS.

"Reported criminal history" means information concerning any formal criminal justice system charges and dispositions. The term includes arrests, detentions, indictments, criminal information, convictions, deferred adjudications, and probations in any state or federal jurisdiction.

Education Code 22.087; 19 TAC 249.14(d), .3(43).

SEC. 11. DISCHARGE OF CONVICTED EMPLOYEES

a) Discharge Under Education Code 22.085

In accordance with Education Code 22.085, RMA shall discharge or refuse to hire an employee or applicant for employment if RMA obtains information through a CHRI review that the employee or applicant has been:

1. Convicted of or placed on deferred adjudication community supervision for an offense for which a defendant is required to register as a sex offender under Code of Criminal Procedure Chapter 62; or
2. Convicted of:
   a. A felony offense under Title 5, Penal Code, if the victim of the offense was under 18 years of age at the time the offense was committed; or
   b. An offense under the laws of another state or federal law that is equivalent to an offense under item 1 or item 2(a).

However, RMA is not required to discharge or refuse to hire an employee or applicant if the person committed an offense under Title 5 Penal Code and:

1. The date of the offense is more than 30 years before:
   a. June 15, 2007 in the case of a person employed by RMA as of that date; or
   b. The date the person's employment will begin, in the case of a person applying for employment with RMA after June 15, 2007; and
2. The employee or applicant for employment satisfied all terms of the court order entered on conviction.

b) Discharge Under Education Code 12.120 and 19 TAC 100.1153

Additionally, in accordance with Education Code 12.120 and 19 TAC 100.1153, an individual may not be employed by RMA if he or she:

1. Has been convicted of any felony or a misdemeanor involving moral turpitude;
2. Has been convicted of any offense listed in Education Code section 37.007(a); or
3. Has been convicted of an offense listed in the Code of Criminal Procedure section 62.001(5).

c) Exception

Notwithstanding the foregoing, a person may be employed in any position by RMA if a school district could employ the person in that position and the TEA approves of the employment

pursuant to Education Code section 12.1059.

Education Code 12.120; 19 TAC 100.1153(b).

d) Certification to TEA

Each school year, the Superintendent or designee shall certify to the Commissioner of Education that RMA has complied with the above provisions.

e) Optional Termination

RMA may discharge an employee if it obtains information of the employee's conviction of a felony or misdemeanor involving moral turpitude that the employee did not disclose to the SBEC or RMA.

SEC. 12. NOTIFICATION OF ARRESTS, INDICTMENTS, CONVICTIONS, AND OTHER ADJUDICATIONS

A RMA employee shall notify his or her Principal or immediate supervisor within three calendar days of any arrest, indictment, conviction, guilty or no contest plea, or other adjudication of the employee for any felony offense or misdemeanor offense involving moral turpitude and/or:

1. Crimes involving RMA property or funds;
2. Crimes involving attempt by fraudulent or unauthorized means to obtain or alter any certificate or permit that would entitle any person to hold or obtain a position as an educator;
3. Crimes that occur wholly or in part on RMA property or at a school-sponsored or school-related activity; or
4. Crimes involving moral turpitude, which include:
    a. Dishonesty, fraud, deceit, theft, misrepresentation;
    b. Deliberate violence;
    c. Base, vile or depraved acts that are intended to arouse or gratify the sexual desire of the actor;
    d. Acts constituting public intoxication, operating a motor vehicle while under the influence of alcohol, or disorderly conduct; or
    e. Acts constituting abuse under the Texas Family Code.

SEC. 13. DISCRIMINATION BASED ON CRIMINAL HISTORY

Except as required by state or federal law, RMA does not prohibit employment or refuse to consider an application for employment solely on the grounds that an applicant/employee has a prior criminal record. RMA does not prohibit employment or refuse to consider an application for employment based solely on the grounds that the applicant/employee has been arrested. It is the policy of RMA, prior to any exclusion of an applicant for employment or continued employment of an employee that has a criminal record, to conduct an individualized assessment of the criminal conduct at issue. In conducting such an assessment, RMA shall carefully consider the following in order to determine that any exclusion based on criminal conduct is job related to the position in question and consistent with the business necessity of RMA:

- The nature and gravity of the offense or offenses;
- The time that has passed since the conviction and/or completion of the sentence;
- The nature of the job held or sought.

RMA shall consider the additional information provided by the applicant/employee that demonstrates that the criminal conduct is not job related and is consistent with business necessity of RMA prior to making any final determination. Such additional information may include:

- The facts or circumstances surrounding the offense or conduct;
- The number of offenses for which the individual was convicted;
- Age at the time of conviction, or release from prison;
- Evidence that the individual performed the same type of work, post-conviction, with the same or a different employer, with no known incidents of criminal conduct;
- The length and consistency of employment history before and after the offense;
- Rehabilitation efforts, e.g., education/training;
- Employment or character references regarding fitness for the particular position;
- Whether the individual is bonded under a federal, state or local bonding program.

SEC. 14. CONSUMER CREDIT REPORTS

a) Definitions

"Adverse action" includes a denial of employment or any other decision for employment purposes that adversely affects any current or prospective employee.

"Consumer report" includes any information from a consumer reporting agency that is used or expected to be used as a factor in establishing the person's eligibility for employment.

"Consumer reporting agency" is an agency that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly assembles or evaluates consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

"Employment purposes" when used in connection with a consumer report means a report used for the purpose of evaluating a person for employment, promotion, reassignment, or retention as an employee.

15 U.S.C. 1681a.

b) Obtaining Consumer Credit Reports

RMA may not procure a consumer report for employment purposes unless:

1. RMA has provided the applicant or employee a written disclosure that a consumer report may be obtained for employment purposes; and
2. The applicant or employee has authorized in writing the procurement of the consumer report.

c) Adverse Action

Before taking any adverse action based on the consumer report, RMA shall provide the applicant or employee a copy of the consumer report and a written description of the person's rights under the Fair Credit Reporting Act, as prescribed by the Federal Trade Commission.

15 U.S.C. 1681b(b)(2).

d) Discrepancies in Address

The Superintendent or designee shall develop and implement reasonable policies and procedures designed to enable RMA, when it receives a notice of address discrepancy, to form a reasonable belief that a consumer report relates to the consumer about whom it has requested the report. The Superintendent or designee shall also develop and implement reasonable policies and procedures for furnishing an address for the consumer, which RMA has reasonably confirmed is accurate, to the consumer reporting agency.

16 CFR 641.1.

e) Disposing of Consumer Credit Report Records

RMA must properly dispose of a consumer report by taking reasonable measures to protect against unauthorized access to or use of the information. "Dispose" includes discarding or abandoning the consumer report, or selling, donating, or transferring any medium, including computer equipment, upon which the consumer report is stored.

Examples of reasonable measures include:

1. Burning, pulverizing, or shredding papers containing a consumer report so the information cannot practicably be read or reconstructed;
2. Destroying or erasing electronic media containing a consumer report so that the information cannot practicably be read or reconstructed; or
3. After due diligence, entering into and monitoring compliance with a contract with another party engaged in the business of record destruction to dispose of the consumer report.

16 CFR 682.3.

PG-4.204 REPORTING EMPLOYEE MISCONDUCT

PART I: Definitions

In this policy:

1. "Abuse" has the meaning assigned by Family Code 261.001 and includes any sexual conduct involving a student or minor.

2. "SBEC" means the State Board for Educator Certification.

3. "Registry" means the registry of persons who are not eligible to be employed by or act as a service provider for an educational entity maintained under Education Code 22A.151.

4. "Service provider" means a person who provides services to Richard Milburn Academy. The term includes:
    a. A contractor or subcontractor for Richard Milburn Academy;
    b. A provider of tutoring services for Richard Milburn Academy;
    c. An entity that has entered into a contract to operate a school district campus under Education Code 11.174;
    d. A staffing provider for Richard Milburn Academy; and
    e. A person employed by or under the control of a person described in item (a), (b), (c), or (d) above.

Education Code 22A.001.

PART II: Reporting Educator Misconduct

SEC. 1. REPORTING OBLIGATIONS

a) Matters to Report

In addition to the reporting requirements under Family Code 261.101, the Superintendent shall notify the State Board for Educator Certification (the "SBEC") if:

1. An educator employed by or seeking employment with RMA has a reported criminal history and RMA obtained information about the educator's criminal record by a means other than the criminal history clearinghouse established by the Texas Department of Public Safety;
2. An educator's employment with RMA was terminated and there is evidence that the educator:
    a. Abused or otherwise committed an unlawful act with a student or minor, including by engaging in conduct that involves physical mistreatment or constitutes a threat of violence to a student or minor and that is not justified under Chapter 9, Penal Code, regardless of whether the conduct resulted in bodily injury;
    b. Was involved in a romantic relationship or solicited or engaged in sexual conduct with a student or minor;
    c. Engaged in inappropriate communications with a student or minor, as defined by SBEC rule;
    d. Failed to maintain appropriate boundaries with a student or minor, as defined by SBOE rules;
    e. Possessed, transferred, sold, or distributed a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. § 801 et seq.;
    f. Illegally transferred, appropriated, or expended RMA property or funds;
    g. Attempted by fraudulent or unauthorized means to obtain or alter a professional certificate or license for purposes of promotion or additional compensation; or
    h. Committed a crime or any part of a crime while on RMA property or at a school-sponsored event.

3. The educator resigned and reasonable evidence supported a recommendation to terminate the individual because he or she engaged in misconduct described in paragraph 2 above; or
4. The Superintendent becomes aware of evidence that an educator employed by RMA engaged in the following misconduct:
    a. Abused or otherwise committed an unlawful act with a student or minor, including by engaging in conduct that involves physical mistreatment or constitutes a threat of violence to a student or minor and that is not justified under Chapter 9, Penal Code, regardless of whether the conduct resulted in bodily injury;
    b. Was involved in or solicited a romantic relationship with or solicited or engaged in sexual conduct with a student or minor;
    c. Engaged in inappropriate communications with a student or minor, as defined by SBEC rule; or
    d. Failed to maintain appropriate boundaries with a student or minor, as defined by SBOE rules.
5. The educator engaged in conduct that violated the assessment instrument security procedures established by Education Code section 39.0301.

Education Code 22A.051(a); *19 TAC 249.14(d)*

b) *Report by Principal*

The Principal of a RMA campus must notify the Superintendent:

1. Except as provided by subsection 2, not later than the seventh business day after the date:
    a. Of an educator's termination of employment or resignation following an alleged incident of misconduct described in Part II(1)(a) above; or
    b. The Principal knew about an educator's criminal record under Part II(1)(a)(1) above; or;
2. Not later than 48 hours after the Principal becomes aware of evidence of misconduct described in Part II(1)(a)(2)(a), (b), (c), or (d) above.

Education Code 22A.051(c).

c) *Timeline for Superintendent Report to SBEC*

The Superintendent must notify SBEC by filing a report:

1. Except as provided by subsection 2, not later than the seventh business day after the Superintendent :
    a. Receives notice from a Principal under Part II(1)(b) above; or
    b. Knew about an educators termination of employment or resignation following an alleged incident of misconduct described in Part II(1)(a) above or an educator's criminal record under Part II(1)(a)(1) above;
2. Not later than 48 hours after the Superintendent:
    a. Receives notice from a Principal under Part II(1)(b); or
    b. Becomes aware of evidence of misconduct described in Part II(1)(a)(2)(a), (b), (c), or (d) above.

Education Code 22A.051(d).

d) *Contents of Report*

The Superintendent's report to SBEC must be:

1. In writing;
2. In a form prescribed by the SBEC; and
3. Filed through the Internet portal developed and maintained by the Texas Education Agency.

Education Code 22A.051(e).

The Superintendent's report must include the following information:

1. The name or names of any student or minor who is the victim of abuse or unlawful conduct by an educator; and
2. The factual circumstances requiring the report and the subject of the report by providing the following available information:
    a. Name and any aliases, certificate number (if any), or social security number;
    b. Last known mailing address and home and daytime phone numbers;
    c. All available contact information for any alleged victim or victims;
    d. Name or names and any available contact information of any relevant witnesses to the circumstances requiring the report;
    e. Current employment status of the subject, including any information about proposed termination, notice of resignation, or pending employment actions; and
    f. Involvement by a law enforcement or other agency, including the Texas Education Agency.

19 TAC 249.14(f).

The Superintendent shall include the name of a student or minor who is the victim of abuse or unlawful conduct by an educator, but the name of the student or minor is not public information under Government Code Chapter 552. *Education Code 21.006(h)*.

SEC. 2. REQUIREMENT TO COMPLETE INVESTIGATION

The Superintendent shall complete an investigation of an educator that involves evidence that the educator may have engaged in misconduct items 2(a) or (b) in Part I, Section 1 (Matters to Report) above, despite the educator's resignation from employment before completion of the investigation.

1. An educator abused or otherwise committed an unlawful act with a student or minor, including by engaging in conduct that involves physical mistreatment or constitutes a threat of violence to a student or minor and that is not justified under Chapter 9, Penal Code, regardless of whether the conduct resulted in bodily injury;
2. An educator was involved in or solicited a romantic relationship with or solicited or engaged in sexual conduct with a student or minor;
3. An educator engaged in inappropriate communications with a student or minor, as defined by SBEC rule; or
4. An educator failed to maintain appropriate boundaries with a student or minor, as defined by SBOE rules.

Education Code 22A.051(b).

SEC. 3. NOTICE OF REPORT

a) Notice to the Board and Educator

The Superintendent shall notify the Board and the educator of the filing of a report to the SBEC. *Education Code 22A.051(f)*.

b) Notice Prior to Accepting Educator's Resignation

Before accepting an employee's resignation that requires filing a report, the Superintendent shall inform the educator in writing that a report will be filed and that sanctions against his or her certificate may result as a consequence. The Superintendent shall also notify the Board before filing the report with SBEC. *19 TAC 249.14(d)(3)(A)-(B)*.

SEC. 4 IMMUNITY

The Superintendent, a director, or principal who, in good faith and while acting in an official capacity, files a report with the SBEC under this policy or communicates with another superintendent, director, or principal concerning an educator's criminal record or alleged incident of misconduct is immune from civil or criminal liability that might otherwise be incurred or imposed. *Education Code 22A.051(g)*.

PART II: Reporting Employee or Service Provider Misconduct

SEC. 1. APPLICABILITY

Part III of this policy applies to a person who is employed by RMA and who does not hold a certification or permit issued under Subchapter B, Chapter 21 of the Texas Education Code; or a service provider for RMA who has or will have direct contact with students. *Education Code 22A.052(a).*

SEC. 2. REPORTING OBLIGATIONS

a) Matters to Report

In addition to the reporting requirement under Family Code 261.101, the Superintendent shall notify the Commissioner of Education (the "Commissioner") if the Superintendent:

1. Becomes aware of evidence that a person described in Part III(1) engaged in the following misconduct:
    a. Abused or otherwise committed an unlawful act with a student or minor, including by engaging in conduct that involves physical mistreatment or constitutes a threat of violence to a student or minor and that is not justified under Chapter 9, Penal Code, regardless of whether the conduct resulted in bodily injury;
    b. Was involved in or solicited a romantic relationship with or solicited or engaged in sexual conduct with a student or minor;
    c. Engaged in inappropriate communications with a student or minor, as defined by SBEC rule;
    d. Failed to maintain appropriate boundaries with a student or minor, as defined by SBOE rules; or
2. Obtains criminal history record information relating to misconduct described above for a person described in Part III(1).

Education Code 22A.052(b).

b) Report by Principal

The Principal of a RMA campus must notify the Superintendent not later than 48 hours after the Principal becomes aware of evidence of an alleged incident of misconduct described by Part III(2)(a)(1)(a)-(d) above. *Education Code 22A.052(d)*.

c) Report by Superintendent

The Superintendent must notify the Commissioner by filing a report not later than 48 hours after the date the Superintendent:

1. Receives notice from a Principal under Part III(2)(b);
2. Knew about the termination or resignation from employment or cessation of services of a person described by Part III(a) following an alleged incident of misconduct described by Part III(2)(a)(1)(a)-(d); or
3. Becomes aware of evidence of misconduct described by Part III(2)(a)(1)(a)-(d).

Education Code 22A.052(e).

The Superintendent's report to the Commissioner must be:

1. In writing;
2. In a for prescribed by the Commissioner; and
3. Filed through the Internet portal developed and maintained by the Texas Education Agency.

Education Code 22A.052(f).

The name of a student or minor who is the victim of abuse or unlawful conduct must be included in the report, but the name of the student or minor is not public information under Chapter 552, Government Code. *Education Code 22A.052(j)*.

SEC. 3. REQUIREMENT TO COMPLETE INVESTIGATION

The Superintendent shall complete an investigation of a person described by Part III(1) that involves evidence that the employee may have engaged in misconduct described in Part II, despite the person's termination of or resignation from employment or cessation of services for RMA before completion of the investigation. *Education Code 22A.052(c).*

SEC. 4. NOTICE OF REPORT

The Superintendent shall notify the Board and the person who is the subject of the report of the filing of the report required by Part III of this policy. *Education Code 22A.052(g)*.

SEC. 5. IMMUNITY

The Superintendent, director, or Principal who in good faith and while acting in an official

capacity files a report under Part III is immune from civil or criminal liability that might otherwise be incurred or imposed. *Education Code 22A.052(h)*.

PART IV: NOTICE TO PARENTS OR GUARDIAN ABOUT MISCONDUCT

The Superintendent shall provide notice to the parent or guardian of a student with whom a person employed by or acting as a service provider for RMA is alleged to have engaged in the following misconduct:

1. Abused or otherwise committed an unlawful act with a student or minor, including by engaging in conduct that involves physical mistreatment or constitutes a threat of violence to a student or minor and that is not justified under Chapter 9, Penal Code, regardless of whether the conduct resulted in bodily injury;
2. Was involved in or solicited a romantic relationship with or solicited or engaged in sexual conduct with a student or minor;
3. Engaged in inappropriate communications with a student or minor, as defined by SBEC rule; or
4. Failed to maintain appropriate boundaries with a student or minor, as defined by SBOE rules.

The notice must inform the parent or guardian:

1. That the alleged misconduct occurred;
2. Whether the person was terminated following an investigation of the alleged misconduct or resigned before completion of the investigation; and
3. Whether a report was submitted to SBEC or the Texas Education Agency concerning the alleged misconduct.

The notice must be provided as soon as feasible after RMA becomes aware that alleged misconduct may have occurred.

Education Code 22A.053.

PG- 4.205 REPORTING CHILD ABUSE AND NEGLECT

SEC. 1. REPORTING CHILD ABUSE OR NEGLECT

Any RMA officer, director, employee, agent, volunteer or contractor having reasonable cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse, maltreatment or neglect by any person shall **immediately** make a report (within 48 hours or less) to at least one of the following authorities after learning of facts giving rise to the reasonable cause to believe:

1. A local or state law enforcement agency;
2. The Texas Department of Family and Protective Services ("DFPS"), Child Protective Services Division;
3. A local office of Child Protective Services, where available; or
4. The state agency that operates, licenses, or registers the facility in which the alleged child

abuse or neglect occurred.

If a professional has reasonable cause to believe that a child has been abused, maltreated or neglected or may be abused, maltreated or neglected, or that a child is a victim of an offense under Penal Code 21.11 (Indecency with a Child), and the professional has reasonable cause to believe that the child has been abused as defined by law, the professional shall make a report **not later than the 48th hour** after the hour the professional first has reasonable cause to believe that the child has been or may be abused or neglected or is a victim of an offense under Penal Code 21.11. A professional **may not delegate to or rely on** another person to make the report.
For purposes of this policy, "professional" means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children.

A report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect. The individual making the report shall identify, if known:

1. The name and address of the child;
2. The name and address of the person responsible for the care, custody, or welfare of the child;
3. The facts that caused the individual to believe the child has been abused or neglected and the source of the information;
4. The individual's name and telephone number;
5. The individual's:
   a. Home address; or
   b. If the individual is a professional as defined by Family Code § 261.101(b), the individual's business address and profession; and
6. Any other pertinent information concerning the alleged or suspected abuse or neglect.

If the suspected abuse or neglect involves a person responsible for the custody, care or welfare of the child, the report must generally be made to the DFPS. All other reports should be made to any local or state law enforcement agency, the DFPS, the Texas Education Agency (if abuse or neglect occurred at school), another state agency where the abuse or neglect occurred, or an agency designated by a court responsible for protection of children.

Texas Family Code, Chapter 261; 19 TAC 100.1211.

SEC. 2. TRAINING

The Superintendent or designee shall ensure that training concerning prevention techniques for, and recognition of, sexual abuse, trafficking, and all other maltreatment of children, including the sexual abuse, trafficking, and other maltreatment of children with significant cognitive disabilities, must be provided as a part of new employee orientation to all new RMA employees as required by Education Code 38.0041. The training must include:

1. Factors indicating a child is at risk for sexual abuse, trafficking, or other maltreatment;
2. Warning signs indicating a child may be a victim of sexual abuse, trafficking, or other

maltreatment;
3. Internal procedures for seeking assistance for a child who is at risk for sexual abuse, trafficking, or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;
4. Techniques for reducing a child's risk for sexual abuse, trafficking, or other maltreatment; and
5. Information on community organizations that have relevant research-based programs that are able to provide training or other education for RMA staff, students, and parents.

RMA must maintain records that include the district or charter school staff members who participated in the training.

The Superintendent or designee may work in conjunction with a community organization to provide the training at no cost to RMA

19 TAC 103.1401(d)(1)-(3).

SEC. 3. RETALIATION PROHIBITED

RMA may not suspend or terminate the employment of, discriminate against, or take any other adverse employment action against a person who is a professional, as that term is defined by Texas Family Code 261.101(b), and who in good faith:

1. Reports child abuse or neglect to:
    a. The person's supervisor;
    b. An administrator of the facility where the person is employed;
    c. A state regulatory agency; or
    d. A law enforcement agency; or
2. Initiates or cooperates with an investigation or proceeding by a governmental entity relating to an allegation of child abuse or neglect.

"Adverse employment action" means an action that affects an employee's compensation, promotion, transfer, work assignment, or performance evaluation, or any other employment action that would dissuade a reasonable employee from making or supporting a report of abuse or neglect.

Texas Family Code 261.110.

SEC. 4. POSTING INFORMATION

Using a format and language that is clear, simple, and understandable to students, RMA shall post, in English and in Spanish:

1. The current toll-free DFPS Abuse Hotline telephone number;
2. Instructions to call 911 for emergencies; and
3. Directions for accessing the DFPS website (www.txabusehotline.org) for more information on reporting abuse, neglect, and exploitation.

This information shall be posted at each RMA campus in at least one high-traffic, highly and clearly visible public area that is readily accessible to and widely used by students. The information must be on a poster (11 x 17 inches or larger) in large print and placed at eye-level to the student for easy viewing. The current toll-free DFPS Abuse Hotline telephone number should be in bold print.

Education Code 38.0042; *19 TAC 103.1401(e)-(f)*.

SEC. 5. ANNUAL REVIEW

The Board shall annually review policies for reporting child abuse and neglect.

19 TAC 103.1401(b).

SEC. 6. COMPUTER TECHNICIAN REPORTS OF CHILD PORNOGRAPHY

Any computer technician employed by RMA who, in the course and scope of employment or business with RMA, views an image on a computer that is or appears to be child pornography must immediately report the discovery to a local or state law enforcement agency or the Cyber Tipline at the National Center for Missing and Exploited Children. The report must include the name and address of the owner or person claiming a right to possession of the computer, if known, and as permitted by federal law.

Except in a case of willful or wanton misconduct, a computer technician may not be civilly liable for reporting or failing to report the discovery of an image. A computer technician who intentionally fails to report an image may be subject to criminal prosecution.

Business & Commerce Code 110.002.

PG-4.206 EMPLOYEE AND GROOMING STANDARDS

An employee's dress and grooming shall appropriate for his or her assignment and in accordance with any additional standards established by the employee's supervisor and/or the Superintendent or designee.

RMA shall not adopt or enforce dress or grooming standards that discriminate against a hair texture or protective hairstyle commonly associated with race.

Labor Code 21.1095(c).

PG-4.207 EMPLOYEE FRATERNIZATION

SEC. 1. RATIONALE

RMA employees are expected to avoid apparent or actual conflicts of interest, favoritism, or bias in their workplace relationships. Consensual romantic relationships can give rise to such realities

or perceptions and are thus potentially exploitative, especially when they involve supervisor/subordinate relationships. In addition, such relationships can and often do create an uncomfortable work or educational environment for students and staff.

SEC. 2. DEFINITION OF ROMANTIC RELATIONSHIPS

A "romantic relationships" is one that involves or is a prelude to sexual intimacy. A romantic relationship may be manifest through, but is not limited to, one or more of the following workplace behaviors: a pattern of exclusivity between two persons; consensual physical touching that implies a romantic intention or desire; the sharing of personal information appropriate for a romantic relationship but beyond the boundaries of a professional workplace relationship; actual physical intimacy; written communications or other actions that demonstrate or imply a romantic interest.

SEC. 3. RELATIONSHIPS BETWEEN EMPLOYEES AND STUDENTS

Employees shall never form romantic relationships with students. Any sexual relationship between a student and an employee is prohibited and unlawful, even if consensual.

SEC. 4. ROMANTIC RELATIONSHIPS BETWEEN EMPLOYEES

Unless otherwise approved by the Superintendent, if two employees marry, become relatives of each other or enter into an intimate relationship, they should not remain in a professional supervisory relationship. RMA will, at its discretion, attempt to identify other available positions, and allow one or both of such employees to apply for reassignment, or RMA may reassign the employees at its discretion. If no alternate position is available, RMA may terminate either of the employees at its discretion.

This policy is not intended to prohibit romantic or outside relationships among peers or colleagues; however, employees involved in such relationships are cautioned to avoid situations that may contribute to an uncomfortable work or educational environment for other employees or students.

SEC. 5. REPORTING REQUIREMENTS

In the event that consensual romantic relationships exist or begin to develop between an employee and supervisor, the supervisor is charged with the responsibility of notifying his or her immediate supervisor of the relationship. The reporting supervisor shall cooperate in making appropriate workplace arrangements and adjustments, which may include but are not limited to reassignments of duties, departments and/or locations.

SEC. 6. FAILURE TO REPORT OR COOPERATE

Employees in positions of authority who fail to report a romantic relationship with a subordinate or fail to cooperate in efforts to reduce the potential for workplace conflicts as directed will be subject to disciplinary action, up to and including termination.

PG-4.208 EMPLOYEE COMPLAINTS AND GRIEVANCES (GENERAL)

SEC. 1. GUIDING PRINCIPLES

RMA values the opinions of all its employees. Employees have the right to express their views through appropriate informal and formal processes.

a) Informal Process

The Board encourages employees to discuss their grievances and complaints through informal meetings with their supervisor or Principal, or other administrator with authority to address the grievance or complaint. Grievances and complaints should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

b) Complaint Procedures

The Superintendent or designee shall develop a detailed employee grievance/complaint process; this grievance/complaint process shall recognize the Board's final authority to hear or decide employee grievances or complaints. The grievance/complaint process shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or "mini-trial" at any level.

The Superintendent or designee shall ensure that the detailed employee grievance/complaint process is made available to employees through the Employee Handbook.

c) Board Consideration of Employee Complaints and Grievances

The Board shall retain final authority to hear or decide employee grievances/complaints.

19 TAC 100. 1113(a)(1)(A).

The Board may conduct a closed meeting when hearing or deciding an employee grievance/complaint as allowed by applicable law.

Gov't Code Ch. 551, Subch. D.

d) Freedom from Retaliation

Neither the Board nor any RMA employee shall unlawfully retaliate against an employee for bringing a grievance or complaint.

COMPLAINTS AND APPEALS PROCESS

i. Level One

Complaints must be filed:

Within (15) fifteen business days of the date the individual first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint; and
With the lowest level administrator who has authority to remedy the alleged problem.

If the only administrator who has authority to remedy the complaint is the superintendent or

designee, the complaint may begin at Level Two following the procedure, including deadlines, for filing the complaint form at Level One.

The appropriate administrator shall investigate as necessary and schedule a conference with the complainant within ten (10) business days after receipt of the written complaint. The administrator may set reasonable time limits for the conference.

The administrator shall provide the individual with a written response within fifteen (15) business days after receipt of the written complaint. In reaching a decision, the administrator may consider information provided at the Level One conference and any other relevant documents or information the administrator believes will help resolve the complaint.

ii. Level Two

If the individual did not receive the relief requested at Level One or if the time for a response has expired, he or she may request a conference with the superintendent or designee to appeal the Level One decision.

The appeal notice must be filed, in writing, within ten (10) business days of the date of the written Level One decision or, if no response was received, within ten (10) business days of the Level One response deadline.

After receiving notice of the appeal, the Level One administrator shall prepare and forward a record of the Level One complaint to the superintendent or designee. This record shall include:

1. The original complaint form and any attachments.
2. All other documents submitted by the individual at Level One.
3. The written response issued at Level One and any attachments.
4. All other documents relied upon by the Level One administrator in reaching the Level One decision.

The superintendent or designee shall hold a conference within fifteen (15) days after the appeal notice is filed. The conference shall be limited to the issues presented by the individual at Level One and identified in the Level Two appeal notice. The superintendent or designee may set reasonable time limits for the conference.

The superintendent or designee shall provide the individual a written response within fifteen (15) business days after the appeal notice is filed. In reaching a decision, the superintendent or designee may consider the Level One record, information provided at the Level Two conference, and any other relevant documents or information the Superintendent or designee believes will help resolve the complaint.

Recordings of the Level One and Level Two conferences, if any, shall be maintained with the Level One and Level Two records.

iii. Level Three

If the individual did not receive the relief requested at Level Two or if the time for a response has expired, he or she may appeal the decision to the Board.

The appeal notice must be filed, in writing, within ten (10) business days of the date of the written Level Two response or, if no response was received, within ten (10) business days of the Level Two response deadline.

The superintendent or designee shall inform the individual of the date, time, and place of the Board meeting at which the complaint will be on the agenda for consideration by the Board.

The superintendent or designee shall provide the Board with the record of the Level Two appeal, which shall include:

1. The Level One record.
2. The notice of appeal from Level One to Level Two.
3. The written response issued at Level Two and any attachments.
4. All other documents relied upon by the administration in reaching the Level Two decision.

The appeal shall be limited to the issues and documents considered at Level Two.

Richard Milburn Academy shall determine whether the complaint will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law.

The presiding officer may set reasonable time limits and guidelines for the presentation, including an opportunity for the individual and administration to each make a presentation and provide rebuttal and an opportunity for questioning by the Board. The Board shall hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels. The Board may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. The lack of a decision by the Board constitutes approval of the Level Two decision.

The Board is Richard Milburn Academy's final authority to hear or decide employee complaints and grievances. *Tex. Gov't Code §§551.001 (3) (B-L); 551.007*. Failure of the Board to take action after hearing an employee's complaint or grievance indicates the Board's affirmance of the decision below.

PG-4.210 PROFESSIONAL DEVELOPMENT

SEC. 1. CLEARINGHOUSE ANNUAL REVIEW

The Superintendent shall recommend a professional development plan for all RMA employees. The Board shall annually review the continuing education and training clearinghouse published by the State Board for Educator Certification ("SBEC") and annually approved the school's professional development plan. RMA's professional development plan must:

(a) Be guided by the recommendations for training in the clearinghouse;
(b) Note any differences in the policy adopted from the recommendations in the clearinghouse; and
(c) Includes a schedule of all training required for educators or other RMA personnel.

Texas Education Code 21.4515(a).

To the extent of any conflict, a frequency requirement for the completion of training provided by statute prevails over a frequency requirement for that training included in the professional development policy approved by the Board.

Texas Education Code 21.4515(b).

a) PROFESSIONAL DEVELOPMENT POLICY

Purpose: The purpose of this Professional Development Policy is to ensure that educators and other personnel within RMA receive relevant and high-quality continuing education and training. This policy is designed to align with the recommendations outlined in the annual continuing education and training clearinghouse published by the State Board for Educator Certification ("SBEC").

Annual Review: The Board shall conduct an annual review of the continuing education and training clearinghouse provided by SBEC to stay abreast of the latest recommendations and best practices in professional development for educators and other relevant personnel.

Guided by Clearinghouse Recommendations: The professional development policy adopted by the Board shall be guided by the recommendations for training as outlined in the clearinghouse. The Board will strive to incorporate the most up-to-date and effective training methodologies to enhance the skills and knowledge of educators and other personnel.

Differences in Policy and Clearinghouse Recommendations: If the Board decides to deviate from the recommendations in the clearinghouse, such differences shall be explicitly noted in the adopted policy. The rationale for these deviations must be clearly articulated and justified, demonstrating a commitment to providing effective professional development while considering the unique needs and context of RMA.

Schedule of Required Training: The Board shall establish and maintain a comprehensive schedule outlining all training required for educators and other relevant personnel. This schedule will include details such as training topics, duration, frequency, and any other relevant information to ensure proper planning and implementation of professional development activities.

Implementation and Compliance: All educators and personnel within RMA are expected to adhere to the professional development policy. The Board shall monitor and evaluate compliance regularly to ensure that educators and other personnel are equipped with the necessary skills and knowledge to excel in their roles.

Review and Revision: This Professional Development Policy shall be subject to periodic review and revision as needed. Any updates to the policy will be made in consultation with the latest recommendations from the SBEC clearinghouse and in consideration of the evolving needs of the education sector.

Communication: The Board shall communicate the details of the professional development

policy, including any deviations from the clearinghouse recommendations to all relevant stakeholders, ensuring transparency and understanding throughout the organization.

This policy shall be reviewed annually or as needed to ensure its continued relevance and effectiveness in supporting the professional growth of educators and other personnel.

PG-4.212 PERSONNEL PROHIBITION ON DIVERSITY, EQUITY, AND INCLUSION DUTIES

SEC. 1. DEFINITIONS

In this policy, "diversity, equity, and inclusion duties" means:

1. Influencing hiring or employment practices with respect to race, sex, color, or ethnicity except as necessary to comply with state or federal antidiscrimination laws;
2. Promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity;
3. Developing or implementing policies, procedures, trainings, activities, or programs that reference race, color, ethnicity, gender identity, or sexual orientation except:
    a. For the purpose of student recruitment efforts by colleges and universities designated as historically black colleges and universities in collaboration with school districts or open-enrollment charter schools; or
    b. As necessary to comply with state or federal law; and
4. Compelling, requiring, inducing, or soliciting any person to provide a diversity, equity, and inclusion statement or giving preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement.

Education Code 11.005(a).

SEC. 2. PROHIBITION ON DIVERSITY, EQUITY, AND INCLUSION DUTIES

Except as required by state or federal law, RMA:

1. May not assign diversity, equity, and inclusion duties to any person; and
2. Prohibits a RMA employee, contractor, or volunteer from engaging in diversity, equity, and inclusion duties at, for, or on behalf of RMA

Education Code 11.005(b).

SEC. 3. EMPLOYMENT ACTION

A RMA employee or contractor who intentionally or knowingly engages in or assigns to another person diversity, equity, and inclusion duties is subject to disciplinary consequences in accordance with RMA's Employee Handbook, up to and including termination.

A RMA employee or contractor who receives discipline under this Policy may appeal the disciplinary consequence under RMA's employee grievance procedure or termination grievance procedure, whichever is applicable.

Education Code 11.005(d).

SEC. 4. LIMITATIONS

This policy does not:

1. Limit or prohibit RMA from contracting with historically underutilized businesses or businesses owned by members of a minority group or by women in accordance with applicable state law;
2. Limit or prohibit RMA from acknowledging or teaching the significance of state and federal holidays or commemorative months and how those holidays or months fit into the themes of history and the stories of this state and the United States of America in accordance with the Texas Essential Knowledge and Skills;
3. Affect a student's rights under the First Amendment of the United States Constitution or Section 8, Article I, Texas Constitution;
4. Limit or prohibit RMA from analyzing school-based causes and taking steps to eliminate unlawful discriminatory practices as necessary to address achievement gaps and differentials described by Education Code 39.053; or
5. Apply to:
    a. Classroom instruction that is consistent with the essential knowledge and skills adopted by the State Board of Education;
    b. The collection, monitoring, or reporting of data;
    c. A policy, practice, procedure, program, or activity intended to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity; or
    d. A student club that is in compliance with the requirements of Education Code 33.0815.

Education Code 11.005(e).

PG.4.213 - PERSONNEL INSTRUCTIONAL REQUIREMENTS AND PROHIBITIONS

SEC. 1. INSTRUCTIONAL REQUIREMENTS AND PROHIBITIONS

a.) Prohibited Discussions or Activities

For any course or subject, including an innovative course, for a grade level from kindergarten through grade 12:

1. A teacher may not be compelled to discuss a widely debated and currently controversial issue of public policy or social affairs;
2. A teacher who chooses to discuss a topic described in subparagraph (1) shall explore that topic objectively and in a manner free from political bias;
3. Neither RMA nor a teacher may require, make part of a course, or award a grade or course credit, including extra credit, for a student's:
    a. Work for, affiliation with, or service learning in association with any organization engaged in:
        i. Lobbying for legislation at the federal, state, or local level, if the student's duties involve directly or indirectly attempting to influence social or public policy or the outcome of legislation; or
        ii. Social policy advocacy or public policy advocacy;
    b. Political activism, lobbying, or efforts to persuade members of the legislative or executive branch at the federal, state, or local level to take specific actions by direct communication; or
    c. Participation in any internship, practicum, or similar activity involving social policy advocacy or public policy advocacy; and
4. A teacher, administrator, or other employee of RMA may not:
    a. Require or make part of a course inculcation in the concept that:
        i. One race or sex is inherently superior to another race or sex;
        ii. An individual, by virtue of the individual's race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;
        iii. An individual should be discriminated against or receive adverse treatment solely or partly because of the individual's race or sex;
        iv. An individual's moral character, standing, or worth is necessarily determined by the individual's race or sex;
        v. An individual, by virtue of the individual's race or sex, bears responsibility, blame, or guilt for actions committed by other members of the same race or sex;
        vi. Meritocracy or traits such as a hard work ethic are racist or sexist or were created by members of a particular race to oppress members of another race;
        vii. The advent of slavery in the territory that is now the United States constituted the true founding of the United States; or
        viii. With respect to their relationship to American values, slavery and racism are anything other than deviations from, betrayals of, or failures to live up to the authentic founding principles of the United States, which include liberty and equality;
    b. Teach, instruct, or train any administrator, teacher, or staff member to adopt a concept listed under subparagraph (4)(a); or
    c. Require an understanding of the 1619 Project.

Education Code 28.0022(a).

This Policy does not limit the teaching of or instruction in the Texas Essential Knowledge and Skills. *Education Code 28.0022(e)*.

Nothing in this Policy prohibits a teacher employed RMA from directing a classroom activity that involves students communicating with an elected official so long as RMA does not influence the content of a student's communication. *Education Code 28.0022(g)*.

RMA may not accept private funding for the purpose of developing a curriculum, purchasing or selecting curriculum materials, or providing teacher training or professional development related to a concept listed in subparagraph (4)(a). *Education Code 28.0022(c)*.

b.) Exception

The prohibition against student courses, awards or grades, and extra credit described in Sec. 1(a)(3) above do not apply to a student's participation in:

1. Community charitable projects, such as building community gardens, volunteering at local food banks, or other service projects;
2. An internship or practicum:
    a. For which the student receives course credit under a career and technology education program or under the P-TECH program established under Education Code 29.553; and
    b. That does not involve the student directly engaging in lobbying, social policy advocacy, or public policy advocacy; or
3. A program that prepares a student for participation and leadership in this country's democratic process at the federal, state, or local level through the simulation of a governmental process, including the development of public policy.

Education Code 28.0022(b).

SEC. 2. PENALTIES TO STUDENTS

RMA may not implement, interpret, or enforce any rule in a manner that would result in the punishment of a student for reasonably discussing the concepts described by Sec. 1(a)(4) in school or during a school-sponsored activity or have a chilling effect on reasonable student discussions involving those concepts in school or during a school-sponsored activity. *Education Code 28.0022(d)*.

SEC. 3 EMPLOYMENT ACTION

A RMA employee or contractor who intentionally or knowingly engages in or assigns to another person an act prohibited by this Policy is subject to disciplinary consequences in accordance with RMA's Employee Handbook, up to and including termination. *Education Code 22.0022(h)*.

SEC. 4. DISTRIBUTION

RMA shall provide a physical and electronic copy of this Policy and any procedures related to this Policy to each employee or contractor. *Education Code 22.0022.(h)*.

PG-4.301 EMPLOYEE HEALTH AND SAFETY

SEC. 1. OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION COMPLIANCE

****NOTE**** RMA is aware that the Occupational Safety and Health Administration ("OSHA") has issued findings that a Texas open-enrollment charter school network ***was not*** a covered employer under the Occupational Safety and Health Act (the "OSH Act"), meaning that OSHA ***did not*** have jurisdiction to review complaints of unsafe work practices under the OSH Act.

While recognizing that RMA may not be subject to the OSH Act, RMA prioritizes employee health and safety by implementing the below policy:

The Superintendent shall ensure that RMA complies with all applicable requirements of the Occupational Safety and Health Administration (the "OSHA") in order to reduce dangers to health and safety by creating and maintaining improved working conditions free from recognized hazards that may cause serious physical injury.

Accordingly, RMA shall:

1. Maintain a log of all occupational injuries and illnesses and report such occurrences as required by the OSHA;
2. Post notice of employee protections under the OSHA in the workplace;
3. Post citations issued by the OSHA, if any, at or near the place of the alleged violation and correct workplace hazards in the time allowed; and
4. Furnish all employees a place of employment free from recognized hazards.

a) Reporting Employee Injuries

Any employee suffering an injury or illness that is work-related – no matter how minor – is responsible for immediately reporting that illness or injury to his or her supervisor. Supervisors must report the injury or illness to the appropriate agency.

Once an injury or illness has been reported, an injury report must be completed within 48 hours.

b) Reporting Serious Injuries

Within eight hours after the death of any employee from a work-related incident or the in-patient hospitalization of three or more employees as a result of a work-related accident, RMA will orally report the fatality/multiple hospitalization by telephone or in person to the Area Office of the OSHA that is nearest to the site of the incident.

RMA will utilize the required OSHA forms to document and log each recordable injury or illness. This information will be kept current, maintained accurately, and retained for a period of five years.

c) Personal Protective Equipment

Each campus shall provide personal protective equipment for all employees so they are able to

work safely with chemicals.

d) Safety Training

The Superintendent or designee shall provide training to employees on hazards and related matters as required by the OSHA.

SEC. 2. GENERAL SAFETY

All employees are expected to work in a safe and prudent manner abiding by all safety related policies and procedures

Lighted candles or open flames are not permitted for any purpose in RMA facilities, except when related to an approved lesson plan. Pyrotechnics in RMA buildings or on school grounds is strictly prohibited.

SEC. 3. ASBESTOS MANAGEMENT PLAN

RMA shall utilize the services of an accredited management planner to develop an asbestos management plan for each campus. A copy of the management plan shall be kept in the Central Office and be made available for inspection during normal business hours.

SEC. 4. PEST CONTROL TREATMENT

Employees are prohibited from applying any pesticide or herbicide without appropriate training and prior approval of the integrated pest management (IPM) coordinator. Any application of pesticide or herbicide must be done in a manner prescribed by law and RMA's integrated pest management program.

Notices of planned pest control treatment will be posted in RMA facilities 48 hours before the treatment begins. Individual employees may request in writing to be notified of pesticide applications. An employee who requests individualized notice will be notified by telephone, written or electric means.

Employees should immediately report any evidence of pest activity to RMA administrators or the Director of Facilities.

SEC. 5. CLEAN AIR ACT

In compliance with the Clean Air Act, RMA shall use only licensed technicians to service and replace air conditioning and refrigeration equipment.

SEC. 6. HAZARD COMMUNICATION ACT

To the extent that the requirements of the OSHA do not apply to RMA, RMA shall comply with the Texas Hazard Communication Act, Health and Safety Code Chapter 502.

RMA is concerned about the safety of all employees. The Superintendent or designee shall adopt procedures and perform the following duties in compliance with the Texas Hazard Communication Act:

1. Post and maintain the notice promulgated by the Texas Department of State Health Services (the "TDSHS") in the workplace.
2. Provide an education and training program for employees using or handling hazardous chemicals under normal operating conditions or foreseeable emergencies.
3. Maintain the written hazard communication program and a record of each training session to employees, including the date, a roster of the employees who attend, the subjects covered in the training session, and the names of the instructors. Records will be maintained for at least five years.
4. Compile and maintain a workplace chemical list that includes required information for each hazardous chemical normally present in the workplace or temporary workplace in excess of 55 gallons or 500 pounds, or as determined by the TDSHS for certain highly toxic or dangerous hazardous chemicals. The list will be readily available to employees and their representatives.
5. Update the list as necessary, but at least by December 31 each year, and maintain the list as required by law. Each workplace chemical list shall be dated and signed by the person responsible for compiling the information.

6. As required by law, label new or existing stocks of hazardous chemicals with the identity of the chemical and appropriate hazard warnings, if such stocks are not already appropriately labeled.
7. Maintain a legible copy of the most current manufacturer's material safety data sheets ("MSDS") for each hazardous chemical; request such sheets from the manufacturer if not already provided or otherwise obtain a current MSDS; make such sheets readily available to employees or their representatives on request.
8. Provide employees with appropriate personal protective equipment.

SEC. 7. PEST CONTROL TREATMENT NOTICE

The Superintendent or designee shall notify employees of any planned pest control treatment by both of the following methods:

1. Posting the sign provided by the certified applicator or technician in an area of common access the employees are likely to check on a regular basis at least 48 hours before each planned treatment.
2. Providing the official Structural Pest Control Service Consumer Information Sheet to any individual working in the building, on request.

SEC. 8. BLOODBORNE PATHOGEN CONTROL

The Superintendent or designee shall establish a written Exposure Control Plan designed to eliminate or minimize exposure to blood or other potentially infections materials, as defined by

29 C.F.R. 1910.1030.

The Exposure Control Plan shall contain at least the following elements:

An exposure determination containing:

1. A list of all job classifications in which all employees in those job classifications have occupational exposure;
    a. A list of job classifications in which some employees have occupational exposure; and
    b. A list of all tasks and procedures or groups of closely related task and procedures in which occupational exposure occurs and that are performed by employees in job classifications in which some employees have occupational exposure.
2. The schedule and method of implementation for the requirements set forth in 29 C.F.R. 1910.1030 regarding methods of compliance, HIV and HBV research laboratories and production facilities, Hepatitis B vaccination and post-exposure evaluation and follow-up, communication of hazards to employees, and recordkeeping; and
3. The procedure for the evaluation of circumstances surrounding exposure incidents as required by 29 C.F.R. 1910.1030.

The Exposure Control Plan shall be made accessible to all employees. The Superintendent or designee shall review and update the Exposure Control Plan at least annually and whenever necessary to reflect new or modified tasks and procedures that affect occupational exposure and to reflect new or revised employee positions with occupational exposure.

Where there is occupational exposure, RMA shall provide, at no cost to employees, appropriate personal protective equipment.

29 C.F.R. 1910.1030.

SEC. 9. PRE-EMPLOYMENT INQUIRIES AND EMPLOYMENT ENTRANCE EXAMINATIONS

RMA shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of a disability, except as provided below. However, RMA is permitted to make pre-employment inquiries into the ability of an applicant to perform job-related functions, such as asking an applicant to describe or demonstrate how, with or without reasonable accommodation, the applicant will be able to perform job-related functions.

42 U.S.C. 12112(d)(2); 29 CFR 1630.14(a).

RMA may require a medical examination (and/or inquiry) after an offer of employment has been made to a job applicant and prior to the beginning of employment duties and may condition the offer on the results of such examination (and/or inquiry), provided all entering employees in the same job category are subjected to such an examination (and/or inquiry) regardless of disability.

The results of an employment entrance medical examination shall be used only to determine the applicant's ability to perform job-related functions.

42 U.S.C. 12112(d)(3); 29 CFR 1630.14(b).

a) Confidentiality

Information obtained regarding the medical condition or history of the applicant shall be collected and maintained on separate forms and in separate medical files and shall be treated as confidential medical records. However, supervisors and managers may be informed regarding necessary restrictions on the employee's work or duties and necessary accommodation; first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.

29 CFR 1630.14(b)(c).

b) Examination During Employment

RMA may require a medical examination (and/or inquiry) of an employee that is job related and consistent with business necessity and may make inquiries into the ability of an employee to

perform job-related functions. The results of an employee's medical examination shall be used only to determine the employee's ability to perform job-related functions.

42 U.S.C. 12112(d)(3)–(4); 29 CFR 1630.14(c).

SEC. 10. EXAMINATIONS DURING EMPLOYMENT

The Superintendent or designee may require an employee to undergo a medical examination if information received from the employee, the employee's supervisor, or other sources indicates the employee has a physical or mental impairment that:

1. Interferes with the employee's ability to perform essential job functions; or
2. Poses a direct threat to the health or safety of the employee or others. A communicable or other infectious disease may constitute a direct threat.

RMA may designate the physician to perform the examination. If RMA designates the physician, RMA shall pay the cost of the examination. RMA may place the employee on paid administrative leave while awaiting results of the examination and evaluating the results.

Based on the results of the examination, the Superintendent or designee shall determine whether the employee has an impairment. If so, the Superintendent or designee shall determine whether the impairment interferes with the employee's ability to perform essential job functions or poses a direct threat. If not, the employee shall be returned to his or her job position.

If the impairment does interfere with the employee's ability to perform essential job functions or poses a direct threat, the Superintendent or designee shall determine whether the employee has a disability and, if so, whether the disability requires reasonable accommodation.

SEC. 11. OTHER REQUIREMENTS

Employees with communicable diseases shall follow recommendations of public health officials regarding contact with students and other employees. Food service workers shall comply with health requirements established by city, county, and state health authorities.

PG-4.302 DRUG, ALCOHOL, AND TOBACCO-FREE WORKPLACE

SEC. 1. DRUG- AND ALCOHOL-FREE WORKPLACE

RMA intends to provide a safe and drug- and alcohol-free environment for employees and students. With this goal in mind, RMA expressly prohibits:

1. The use, possession, solicitation for, or sale of narcotics or other illegal drugs, alcohol, or prescription medication without a prescription on RMA property or while performing an assignment.

2. Being impaired or under the influence of legal or illegal drugs or alcohol away from RMA, if such impairment or influence adversely affects the employee's work performance, the safety of the employee or of others, or put at risk RMA's reputation.
3. Possession, use, solicitation for, or sale of legal or illegal drugs or alcohol away from RMA, if such activity or involvement adversely affects the employee's work performance, the safety of the employee or of others, or puts at risk RMA's reputation.
4. The presence of any detectable amount of prohibited substances in the employee's system while at work, while on RMA property, or while on RMA-related business. "Prohibited substances" include illegal drugs, alcohol, or prescription drugs not taken in accordance with a prescription given to the employee.

SEC. 2. DRUG AND ALCOHOL TESTING

RMA will conduct drug and/or alcohol testing under any of the following circumstances:

a) School Drivers

Employees who drive RMA-owned or leased vehicle(s) on school-related business may be subject to drug and/or alcohol testing as determined necessary by the RMA administration.

b) Random Testing

Employees may be selected at random for drug and/or alcohol testing at any interval determined by RMA.

c) Reasonable Suspicion Testing

RMA may remove an employee from duty and require the employee to submit to drug and/or alcohol testing if there is reasonable suspicion that RMA that the employee may be under the influence of drugs in violation of RMA policy. Circumstances supporting a finding of reasonable suspicion include, but are not limited to, the following circumstances:

1. Evidence of drugs or alcohol on or about the employee's person or in the employee's vicinity;
2. Unusual conduct on the employee's part that suggests impairment or influence of drugs or alcohol;
3. Negative performance patterns; or
4. Excessive and unexplained absenteeism or tardiness.

The determination of reasonable suspicion will be based on specific observations of the appearance, behavior, speech, or body odors of the employee whose motor ability, emotional equilibrium, or mental acuity seems to be impaired while on duty, or other relevant information.

d) Post-Accident Testing

Any employee involved in an on-the-job accident or injury under circumstances that suggest possible use or influence of drugs or alcohol in the accident or injury event may be asked to

submit to a drug and/or alcohol test. “Involved in an on-the-job accident or injury” means not only the one who was or could have been injured, but also any employee who potentially contributed to the accident or injury event in any way.

SEC. 3. POLICY VIOLATIONS

An employee is subject to disciplinary sanctions under this policy if:

1. The employee is tested for drugs or alcohol outside of the employment context and the results indicate a violation of this policy;
2. The employee is tested for drugs or alcohol in accordance with this policy and the results indicate a violation of this policy; and/or
3. The employee refuses to submit to testing under this policy.

Disciplinary sanctions for violations of this policy may include, but are not limited to:

1. Referral to drug and/or alcohol counseling or rehabilitation programs;
2. Referral to employee assistance programs;
3. Referral to appropriate law enforcement officials for prosecution;
4. Removal from safety-sensitive functions;
5. Employment actions, up to and including termination of employment; and/or
6. Any other form of disciplinary sanction deemed appropriate by RMA.

SEC. 4. DRUG-FREE AWARENESS PROGRAM

The Superintendent shall establish, as needed, a drug-free awareness program complying with legal requirements. The program shall provide relevant information to employees in the following areas:

1. The dangers of drug use and abuse in the workplace.
2. RMA’s drug-free workplace policy.
3. Counseling, rehabilitation, and other assistance programs available to employees in the community, if any.
4. Consequences on employment for violating RMA’s drug use and abuse prohibitions.

The employee shall be responsible for all fees or charges related to drug/alcohol counseling or rehabilitation, if any.

SEC. 5. TOBACCO USE

RMA further intends to provide a tobacco-free environment for employees and students. Smoking (including, but not limited to cigarettes, cigars, and pipes) and the use of tobacco by employees is prohibited on all RMA-owned property, in RMA-owned vehicles, and while supervising students during school-related events.

RMA also prohibits the use of any "vapor products"—meaning electronic cigarettes (e-cigarettes) or any other device that uses a mechanical heating element, battery, or electronic circuit to deliver vapor that may include nicotine to the individual inhaling from the device; any substance used to fill or refill the device-cigarette; inhalants; electronic cigarette devices; and/or other devices or paraphernalia used with vapor products, other inhalants, or chemicals—at all times on RMA property, at any RMA event or activity (whether or not on school property), or in RMA vehicles.

An employee who violates this tobacco use policy is subject to disciplinary action, up to and including termination from employment.

PG-4.303 PSYCHOTROPIC DRUGS AND MEDICAL EVALUATIONS

An RMA officer or employee shall not:

1. Recommend to a student or a parent that the student use a psychotropic drug;
2. Suggest any particular diagnosis; or
3. Preclude a student from attending a class or participating in a school-related activity because of the parent's refusal to consent to the administration of a psychotropic drug to a student or to a psychiatric evaluation or examination of a student.

"Psychotropic drug" means a substance that is used in the diagnosis, treatment, or prevention of a disease or as a component of a medication and intended to have an altering effect on perception, emotion, or behavior.

This policy does not prevent an RMA officer or employee from:

1. Making an appropriate referral under Child Find;
2. Recommending that a child be evaluated by an appropriate medical practitioner, if the employee is a registered nurse, advanced nurse practitioner, physician, or certified or appropriately credentialed mental health professional; or
3. Discussing any aspect of a child's behavior or academic progress with the child's parent or other RMA officer or employee, as appropriate.

Education Code 38.016.

PG-4.304 CONFIDENTIALITY OF MEDICAL RECORDS

RMA shall strive to protect the privacy of employees' medical information to the greatest extent possible.

SEC. 1. "MEDICAL INFORMATION" DEFINED

"Medical information" is any information, data, or documentation relating to an employee's mental or physical condition. The term includes, but is not limited to:

1. Oral, written, or digital information concerning an employee's mental or physical condition;
2. Medical records;
3. Dental records;
4. Disability records;
5. Workers' compensation records;
6. Medical leave records;
7. Genetic information;
8. Health insurance information; and/or
9. Information concerning visits or payments to any health care professional, hospital, emergency room, or other type of short- or long-term health care facility.

SEC. 2. CONFIDENTIALITY OF RECORDS

Any medical information concerning employees will be maintained in separate, confidential medical files apart from regular personnel records. Only employees authorized by the Superintendent may access such files.

Employees are hereby notified that medical information concerning employees is absolutely confidential under state and federal laws and may not be discussed at any time with any person under any circumstances, unless:

1. An employee needs to do so in order to carry out his or her job duties, or
2. The person discussing the information is talking or otherwise communicating with the subject of the information at that person's invitation.

If an employee is concerned about a possible medical condition on the part of another employee, the employee must not discuss such concern with anyone other than his or her Principal or immediate supervisor.

SEC. 3. POLICY VIOLATIONS

Any employee who is found to have discussed medical information concerning another employee with anyone else in violation of this policy, or who is found to have released such information without authorization, will be subject to severe disciplinary action, up to and possibly including immediate termination from employment. Such an employee may also be subject to both civil and criminal action in a court of law under state and federal law.

PG-4.305 EMPLOYEE SEARCHES

SEC. 1. EMPLOYEE SEARCHES

RMA reserves the right to conduct searches to monitor compliance with rules concerning safety of employees, security of RMA and individual property, drugs and alcohol, and possession of other prohibited items.

"Prohibited items" include illegal drugs, alcoholic beverages, prescription drugs or medications not used or possessed in compliance with a current valid prescription, weapons, any items of an obscene, harassing, demeaning, or violent nature, and any property in the possession or control of an employee who does not have authorization from the owner of such property to possess or control the property.

"Control" means knowing where a particular item is, having placed an item where it is currently located, or having any influence over its continued placement.

In addition to RMA premises, RMA may search employees, their work areas, lockers, personal vehicles if driven or parked on RMA property, and other personal items such as bags, purses, briefcases, backpacks, lunch boxes, and any and all other containers.

SEC. 2. NO EXPECTATION OF PRIVACY

There is no general or specific expectation of privacy in the RMA workplace, either on RMA property or while on duty. In general, employees should assume that what they do while on duty or on RMA property is not private. All employees and all of the areas listed above are subject to search at any time. The areas in question may be searched at any time, with or without the employee being present. As a general rule, with the exception of items relating to personal hygiene or health, no employee should ever bring anything to work or store anything at work that he or she would not be prepared to show and possibly turn over to RMA officials and/or law enforcement authorities.

SEC. 3. LOCKERS AND OTHER STORAGE AREAS

If an employee uses a locker or other storage area at work, including a locking desk drawer or locking cabinet, RMA will either furnish the lock and keep a copy of the key or combination, or else allow the employee to furnish a personal lock. If the employee uses a personal lock, he or she must provide a copy of the key or combination to RMA.

SEC. 4. APPLICABILITY OF POLICY

All RMA employees are subject to this policy. However, any given search may be restricted to one or more specific individuals, depending upon the situation. Searches may be done on a random basis, or based upon reasonable suspicion. "Reasonable suspicion" means circumstances suggesting to a reasonable person that there is a possibility that one or more individuals may be in possession of a prohibited item, as defined above.

Any search under this policy will be done in a manner protecting employee privacy, confidentiality, and personal dignity to the greatest extent possible. RMA will respond severely to any unauthorized release of information concerning individual employees.

No employee will ever be physically forced to submit to a search. However, an employee who refuses to submit to a search request by RMA will face disciplinary action, up to and possibly including immediate termination of employment.

SEC. 5. VIDEO SURVEILLANCE

In order to promote the safety of RMA employees, students, and visitors, as well as the security of its facilities, RMA may conduct video surveillance of any portion of its premises at any time. The only areas excepted from video surveillance are private areas of restrooms, showers, and dressing rooms. All video cameras will be positioned in appropriate places in and around RMA buildings and used to promote the safety and security of people and property.

PG-4.306 WORKERS' COMPENSATION

As permitted by state law, RMA provides workers' compensation benefits to employees who suffer a work-related illness or personal injury due to accidents arising out of their employment with RMA. These benefits are paid for entirely by RMA and help pay for medical treatment and make up for part of the income lost while recovering. All work-related illnesses, accidents, or injuries should be reported immediately to the employee's supervisor and the Superintendent. Employees who suffer a work-related injury or illness, and who must be off work due to such injury or illness, shall be governed by applicable provisions of the Workers' Compensation Act (the "WCA") and the federal Family and Medical Leave Act (the "FMLA") where applicable.

The Superintendent shall develop procedures to implement RMA's Workers Compensation program, including procedures for requesting and use of leave benefits, injury reporting requirements, return to work and reinstatement procedures, absence control procedures, and any other procedure necessary to effectuate the WCA as required by law

SEC. 1. MANDATORY REQUIREMENTS

Workers' Compensation Insurance covers all employees during the time they are on the job.

1. Covered injuries and illnesses may be physical or mental and specific or cumulative.
2. An injury is considered job-related when it arises out of and in the course and scope of employment.
3. The activity that caused the injury must also be an activity that is in the course and scope of employment.

SEC. 2. DENIAL OF WORKERS' COMPENSATION INSURANCE BENEFITS

Except as otherwise required by state law, injuries not covered by Workers' Compensation Insurance include those where the employee:

1. Was intoxicated on alcohol or drugs.
2. Was in the process of committing a felony (and has been convicted).

3. Was participating in a social or recreational activity off-duty that was not directly related to his or her work.
4. Was commuting to or from work unless doing so under the direct control/orders of RMA on school-related business.
5. Caused the injury intentionally, or committed suicide.
6. Was "horsing around" or fighting on the job.
7. Violated a school safety policy or procedure.

If RMA denies a Workers' Compensation Insurance claim:

1. The employee may contest the decision in accordance with the provisions of the Workers' Compensation laws of the State of Texas.
2. All costs incurred by the employee in contesting a denial of the claim shall be the sole responsibility of the employee.
3. RMA is not obligated to make any commitments or statements pertaining to its liability concerning an employee's injury or illness.

SEC. 3. FRAUDULENT CLAIMS FOR WORKERS' COMPENSATION

Filing a false or fraudulent claim is a violation of law and **RMA**'s policy, and can result in disciplinary employment actions, including termination of employment.

SEC. 4. PROHIBITED DISCRIMINATION

RMA may not discharge or in any other manner discriminate against an employee because the employee has:

1. Filed a workers' compensation claim in good faith.
2. Hired a lawyer to represent the employee in a claim.
3. Instituted or caused to be instituted in good faith a proceeding under the Texas Workers' Compensation Act.
4. Testified or is about to testify in a proceeding under the Texas Workers' Compensation Act.

Labor Code 451.001.

a) WORKERS' COMPENSATION POLICY

1. **Purpose:** The purpose of this Workers' Compensation Policy is to establish guidelines and procedures for employees of RMA in the event of work-related illnesses, accidents, or injuries. This policy ensures compliance with state law, the Workers' Compensation Act (WCA), and the federal Family and Medical Leave Act (FMLA) where applicable.

2. **Coverage**: This policy applies to all employees of RMA who may suffer from work-related illnesses, accidents, or injuries during the course of their employment.

3. **Reporting Requirements:**
    a. All employees must immediately report any work-related illness, accident, or

injury to their supervisor and the Superintendent or his designee.
   b. In case of a medical emergency, employees should seek immediate medical attention and inform their supervisor and the Superintendent or his designee as soon as possible.

4. **Workers' Compensation Benefits:**
   a. RMA provides workers' compensation benefits to employees in accordance with state law.
   b. These benefits cover medical treatment expenses and partial income replacement for the duration of recovery.

5. **Leave Benefits and Governing Acts:**
   a. Employees who suffer a work-related injury or illness and require time off shall be governed by the provisions of the WCA and FMLA where applicable.
   b. Employees must adhere to the procedures outlined in this policy for requesting and using leave benefits.

5. **Procedures for Requesting and Using Leave Benefits:**
   a. Employees must promptly notify their supervisor of their need for leave due to a work-related injury or illness.
   b. Employees should submit a written request for leave, including necessary medical documentation, to the Human Resources department.
   c. Human Resources will review, and process leave requests in accordance with applicable laws and regulations.

6. **Return to Work and Reinstatement Procedures:**
   a. Employees are expected to provide timely notice of their readiness to return to work after recovering from a work-related injury or illness. Some work-related injuries and/or illnesses may require a medical return to work notice.
   b. The company will provide reasonable accommodation, where possible, to facilitate the employee's return to work.
   c. Reinstatement procedures will be in accordance with applicable laws and RMA policies.

7. **Absence Control Procedures:**
   a. RMA will monitor absences related to work-related injuries or illnesses to ensure compliance with applicable laws and policies.
   b. Excessive or unexplained absences may be subject to further review and management action.

8. **Compliance with Laws:** All procedures outlined in this policy are designed to fulfill the WCA as required by state law.

9. **Review and Update:** This policy will be periodically reviewed and updated as necessary to ensure compliance with changing laws and regulations.

10. **Questions and Assistance:** Employees with questions or in need of assistance regarding

this policy should contact the Human Resources department.

This Workers' Compensation Policy is effective and supersedes any previous policies on this subject.

4.401 WAGE AND HOUR LAWS

SEC. 1. FAIR LABOR STANDARDS ACT

a) Classification of Positions

The Superintendent or designee shall determine the classification of positions or employees as "exempt" or "nonexempt" for purposes of payment of overtime in compliance with the Fair Labor Standards Act (FLSA).

b) Exempt

RMA shall pay employees who are exempt from the overtime pay requirements of the FLSA on a salary basis. The salaries of these employees are intended to cover all hours worked, and RMA shall not make deductions that are prohibited under the FLSA or state law.

Exempt employees (excluding teachers) are paid on a salaried basis, and their salary is not reduced for absences of less than one full day.

An employee who believes deductions have been made from his or her salary in violation of this policy should bring the matter to RMA's attention, through the RMA complaint process. If improper deductions are confirmed, RMA will reimburse the employee and take steps to ensure future compliance with the FLSA.

The Superintendent or designee may assign noncontractual supplemental duties to personnel exempt under the FLSA, as needed. The employee may be compensated for these assignments according to RMA's compensation plans.

c) Nonexempt

Nonexempt employees may be compensated on an hourly basis or on a salary basis. Employees who are paid on an hourly basis shall be compensated for all hours worked. Employees who are paid on a salary basis are paid for a 40-hour workweek and do not earn additional pay unless the employee works more than 40 hours.

A nonexempt employee shall have the approval of his or her supervisor before working overtime. An employee who works overtime without prior approval is subject to discipline, up to and including termination, but shall be compensated in accordance with the FLSA.

d) Minimum Wage and Overtime

Unless an exemption applies, RMA shall pay each of its employees not less than minimum wage for all hours worked and for exempt employees, in accordance with the minimum salary basis requirements (except for instructional employees as defined in the FLSA).

Unless an exemption applies, RMA shall pay a non-exempt employee not less than one and one-half times the employee's regular rate of pay for all actual hours worked in excess of forty in any workweek.

e) Workweek Defined

For purposes of FLSA compliance, the workweek for school employees shall be 8:00 a.m. Monday until Friday 5:00 p.m.

SEC. 2. AND HOUR RECORDS

RMA shall maintain and preserve payroll or other records for nonexempt employees containing the information required by the regulations under the FLSA. Records shall also be kept in accordance with applicable State record retention schedules.

SEC. 3. COMPLIANCE WITH FEDERAL AND STATE WAGE AND HOUR LAWS

RMA shall take all reasonable steps to ensure that employees receive the correct amount of pay in each paycheck and that employees are paid promptly on the scheduled paydays and in accordance with Federal and State Wage and Hour Laws including the FLSA and the Texas Payday Act. The Superintendent or designee shall adopt procedures to ensure that RMA complies with applicable Federal and State Wage and Hour Laws.

PG-4.501 EMPLOYEE ATTENDANCE

SEC. 1. ATTENDANCE

RMA expects all employees to conduct themselves in a professional manner during their employment. This includes practicing good attendance habits. All employees should regard coming to work on time, working their shift as scheduled, and arriving and leaving at the scheduled time as essential functions of their jobs.

RMA has established the following policies for employee attendance:

1. Employees should arrive to work and be at their assigned duty station no later than their scheduled start time.
2. Employees should remain at their duty station unless the needs of the job require being elsewhere or as authorized by their supervisor, except during authorized breaks.
3. Employees should take only the time normally allowed for breaks as authorized by their supervisor.
4. Non-salaried/non-exempt employees should leave promptly at the end of their scheduled workday, unless given permission by their supervisor to work past that time.

5. Employees should call in and personally notify a supervisor if they will be absent or tardy, unless a verifiable emergency makes it impossible to do so.
6. In addition to any time clock or time-recording system RMA may implement, time keeping for non-exempt employees must be done weekly and manually using RMA's approved time sheets.

SEC. 2. NOTICE OF ABSENCE OR TARDINESS

Absence or tardiness may be excused under exceptional circumstances, but generally only if an employee provides prior written notice of the need to be absent or tardy. Such advance notice is necessary so that other arrangements can be made to cover the employee's responsibilities, if necessary.

The Superintendent or designee and Human Resources Department shall develop procedures concerning employee absence and tardiness. These procedures shall be distributed to all employees; this distribution may be through the RMA Employee Handbook.

SEC. 3. EMPLOYEE WORK SCHEDULES

The Superintendent or designee and Human Resources Department shall see that work schedules are developed and distributed for each position with RMA.

SEC. 4. JOB ABANDONMENT

An employee who is absent without notice for three or more consecutive days shall be considered as having abandoned his or her job; RMA shall process the employee's work separation as a voluntary resignation without good cause related to the work.

PG-4.502 VACATION AND SICK LEAVE

SEC. 1. PERSONAL LEAVE

RMA does not directly participate in the State Personal Leave Program or provide or recognize "State Days" under Education Code, Chapter 22; therefore, accumulated state personal leave days from other Texas School Districts or public schools may not be transferred in or out of the RMA system.

f) Local Personal Leave

x. *Eligibility for Local Personal Leave.*

Each full-time employee, whether working in an exempt or non-exempt position, will be granted local personal leave starting in August of each school year.
An employee hired between August 1 and December 31 will receive all local leave days designated for their position.
An employee hired between January 1 and April 30 will receive half of the local leave days

designated for their position.
An employee hired between May 1 and July 31 will receive zero (0) local leave days designated for their position.

Days	Paid Leave Amount	Accrual
230 - 215	12	Not Eligible
200 - 210	11	Not Eligible
185 - 195	10	Not Eligible

Exempt employees must use leave in ½-day increments.

Part time and temporary employees are not eligible for Local Personal Leave.

g) *Executive Leadership Team Leave.*

The Executive Leadership team is made up of the Superintendent, Executive Director of Instructional Operations, Chief Financial Officer and Executive Director of Instructional Technology, Grants and Expansion. The Executive Leadership team will receive two weeks of vacation per year in addition to Local Personal Leave days, to be taken at such time deemed appropriate.

These employees are salaried employees who must be available at such times of the year when workloads are heavy in support of district missions. The vacation time may be taken in consecutive days or it may be split up.

h) *Medical Certification*

Any employee who is absent more than three days because of a personal or family illness must submit a medical certification from a qualified health care provider confirming the specific dates of the illness, the reason for the illness, and – in the case of personal illness – the employee's fitness to return to work.

i) *Forfeiture of Leave*

Local Leave does not accumulate or roll forward from year to year, and is forfeited upon resignation, retirement, or termination from employment.

SEC. 4. BEREAVEMENT LEAVE

In the event of the death of an employee's immediate family member, RMA will provide five days of paid leave. In the event of the death of an employee's extended family member, RMA will provide three days of paid bereavement leave.

For the purpose of this policy, an "immediate family member" includes the following: spouse, child/step-child, parent/step-parent, grandparent/step-grandparent, grandchild/step-grandchild, sibling/step-sibling, spouse's parent, spouse's grandparent, daughter-in-law, son-in-law, brother or sister-in-law, any family member residing in the employee's home.

For the purpose of this policy, “extended family” includes the following: first cousin, aunt, uncle, niece, nephew, spouse’s aunt/uncle, spouse’s niece/nephew.

No more than five paid bereavement days will be used for this purpose in any one school year unless otherwise approved by the Superintendent or designee.

SEC. 5. RELIGIOUS OBSERVANCES

An employee requesting to attend a religious observance on a regularly scheduled school day may use Personal Leave. In the event that all Personal Leave has been used, deductions from the employee’s salary shall be made on the basis of the employee’s daily rate of pay in accordance with applicable law.

SEC. 6. JURY DUTY AND OTHER COURT APPEARANCES

RMA will pay full time employees their normal daily compensation for each regularly scheduled workday on which the employee serves in any phase of jury service provided the employee surrenders his or her jury service payments to RMA. This compensation for jury service is available to all full-time staff for up to ten (10) working days per school year.

An employee selected for jury duty must notify his or her supervisor within 48 hours of receiving the court’s notice or summons. The employee must also present documentation of jury service to his or her supervisor.

RMA shall not discharge, threaten to discharge, intimidate, or coerce any permanent employee because the employee serves as a juror or grand juror, or for the employee's attendance or scheduled attendance in connection with the service, in any court in the United States.

An employee who receives a court subpoena to provide testimony in a civil or criminal proceeding to which the employee is not a party shall submit documentation of the subpoena to Human Resources within 48 hours of receipt of the court subpoena. The employee must present documentation of appearance and surrender any witness fee or other court compensation for the appearance before he or she will receive approval for paid leave. RMA will pay all full-time employees their normal daily compensation for each regularly scheduled workday on which the employee serves for appearance in a court order or subpoena. This compensation is available to all full-time staff for up to four (4) working days per school year.

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If the employee is a party to any civil or criminal litigation and is court-ordered or subpoenaed for court appearances, the employee’s court attendance shall not be compensated and the employee must arrange for time off without pay or use local personal leave for such appearances.

RMA shall not discharge, threaten to discharge, intimidate, or coerce any permanent employee because the employee serves as a juror or grand juror, or for the employee's attendance or scheduled attendance in connection with the service, in any court in the United States.

SEC. 7. VOTING LEAVE

Any employee who does not have two consecutive non-work hours while the polls are open on

election day will be given up to two hours off with pay in order to vote, unless more time is required by state law. The employee should notify the appropriate supervisor before Election Day if time off is needed, so that the timing of the employee's absence can be pre-arranged.

SEC. 8 LIMITATIONS ON LEAVES OF ABSENCE

With the exception of leaves of absence for military duty, peace officer leave, or approved leave under the Family and Medical Leave Act, if an employee accumulates more ten days of absence after exhausting all available paid and unpaid leave, the employee shall be separated due to unavailability for work, subject to any reasonable accommodation duties RMA may have under the Americans with Disabilities Act (ADA) or similar law. Any employee separated for unavailability for work following exhaustion of all available leave will be eligible for rehire and will be able to apply for any vacancies that may exist at any given time, depending upon qualifications and availability of job openings.

PG-4.503 MILITARY LEAVE – FEDERAL LAW

SEC. 1. EMPLOYEE MILITARY LEAVE

Any RMA employee who is absent from employment due to voluntary or involuntary service in the uniformed services is entitled to certain rights and benefits under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) if:

1. The employee (or an appropriate officer of the uniformed service in which the employee serves) has provided written or verbal notice of such military notice to RMA (unless notice cannot be given because of military necessity or is unreasonable or impossible to provide);
2. The cumulative length of the absence and all previous absences from employment with RMA does not exceed five years; and
3. The employee reports to or submits an application for reemployment to RMA and applies with all other applicable requirements.

For purposes of leave under USERRA, "uniformed service" means the Armed Forces; the Army National Guard, and the Air National Guard when an individual is engaged in active duty for training, inactive duty training, or full-time National Guard duty; the commissioned corps of the Public Health Services; and any other category of persons designated by the President of the United States in time of war or emergency.

The term "service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty; active duty for training; initial active duty for training; inactive duty training; full-time National Guard duty; state active duty for a period of 14 days or more; state active duty in response to a national emergency declared by the president under the National Emergencies Act, 50 U.S.C. 1601 et seq.; state active duty in response to a major disaster declared by the president under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5170; a period for which a person is absent from a position of employment for the purpose of an

examination to determine the fitness of the person to perform any such duty; a period for which a system member of the National Urban Search and Rescue Response System is absent from a position of employment due to an appointment into federal service under Section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; and a period for which a person is absent from employment for the purpose of performing funeral honors duty.

The term "state active duty" means training or other duty, other than inactive duty, performed by a member of the National Guard of a state not under 32 U.S.C. 502 or under U.S.C. Title 10; in service to the governor of a state; and for which the member is not entitled to pay from the federal government.

A person who is re-employed by RMA under USERRA is entitled to the seniority and other rights and benefits that he or she held on the date that uniformed service commenced, plus the additional seniority, rights, and benefits that would have been attained had he or she remained continuously employed.

38 SC 4303(13), (15)-(16), 4316(a).

A. Exception

RMA is not required to re-employ an employee if:

1. Circumstances at RMA have changed so as to make re-employment impossible or unreasonable;
2. The re-employment of the employee would cause undue hardship for RMA;
3. The employment with RMA from which the employee leaves to perform uniformed service is for a brief, nonrecurrent period and there is no reasonable expectation that employment with RMA will continue indefinitely or for a significant period; or
4. The employee is separated from uniformed service with a dishonorable or bad conduct discharge, under other than honorable conditions, or in other circumstances outlined in federal regulation at 20 C.F.R. § 1002.135.

38 .S.C. 4312(d).

B. Termination of Leave Entitlement

An employee's entitlement to USERRA leave by reason of the service of such person in one of the uniformed services terminates upon the occurrence of any of the following events:

1. Separation from uniformed service with a dishonorable or bad conduct discharge;
2. Separation from uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the U.S. secretary concerned; or
3. Dismissal permitted under or a dropping from the rolls pursuant to 10 U.S.C. 1161(a) (dismissal of commissioned officers).

38 U.S.C. 4304.

PG-4.504 FAMILY AND MEDICAL LEAVE

SEC. 1. GENERAL PROVISIONS

a) Family and Medical Leave

The Family and Medical Leave Act ("FMLA") provides eligible employees with unpaid leave for certain family and medical reasons during a 12-month period. During this leave, employees are entitled to continue group health plan coverage as if they had continued to work. At the conclusion of the leave, subject to some exceptions, employees generally have the right to return to the same or an equivalent position, equivalent pay, benefits and working conditions.

b) Employment Eligibility Criteria

An "eligible employee" is one who:

Has been employed by RMA for at least 12 months (which need not be consecutive);
Has been employed by RMA for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave; and
Works at a RMA facility where at least 50 employees are employed within 75 miles.

i. Events Entitling Employees to FMLA Leave

An eligible employee shall be entitled to FMLA leave for one or more of the following:

1. For the birth of a son or daughter of the employee and to care for the newborn child.
2. For placement of a son or daughter with the employee for adoption or foster care.
3. To care for the employee's spouse, son or daughter, or parent with a serious health condition.
4. Because of a serious health condition that makes the employee unable to perform the functions of his or her position.
5. Because of any Qualified Exigency (defined below) arising out of the fact that the employee's spouse, son or daughter, or parent is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.
6. To care for a covered servicemember with a serious injury or illness incurred in the line of duty if the employee is the spouse, son, daughter, parent, or next of kin of the servicemember.

ii. Qualifying Exigency FMLA Leave

An eligible employee may take FMLA leave for one or more of the following qualifying exigencies:

1. Short-notice deployment.
2. Military events and related activities.
3. Childcare and school activities.

4. Financial and legal arrangements.
5. Counseling.
6. Rest and recuperation.
7. Post-deployment activities.
8. Parental care.
9. Additional activities, provided that RMA and the employee agree that the leave shall qualify as an exigency and agree to both the timing and duration.

iii. Pregnancy or Birth

Both parents are entitled to FMLA leave to be with a healthy newborn child (i.e., bonding time) during the 12-month period beginning on the date of birth. In addition, the expectant mother is entitled to FMLA leave for incapacity due to pregnancy, for prenatal care, or for her own serious health condition following the birth of the child. The expectant mother is entitled to leave for incapacity due to pregnancy even though she does not receive treatment from a health-care provider during the absence and even if the absence does not last for more than three consecutive calendar days. A spouse is entitled to FMLA leave if needed to care for a pregnant spouse who is incapacitated, during her prenatal care, or following the birth of a child if the spouse has a serious health condition.

SEC. 2. LEAVE ENTITLEMENT AND USE

a) Maximum Amount of FMLA Leave Within a 12-Month Period

Except in the case of military caregiver leave, an eligible employee's FMLA leave entitlement is limited to a total of 12 workweeks of leave during a 12-month period for any one or more of the qualifying reasons.

Spouses who are employed by RMA may be limited to a combined total of 12 workweeks of leave during any 12-month period if the leave is taken for birth of a son or daughter, the placement of a child for adoption or foster care, or to care for a parent with a serious health condition. Each spouse may be entitled to additional FMLA leave for other FMLA-qualifying reasons, but not more than a total of 12 workweeks per person.

b) Determining the 12-Month Period

Except with respect to military caregiver leave, RMA may choose any one of the following methods for determining the "12-month period" in which the 12 weeks of leave entitlement occurs:

The 12-month period measured forward from the date any employee's first FMLA leave begins.

1. The calendar year;
2. Any fixed 12-month "leave year," such as a fiscal year or a year starting on an employee's "anniversary date";
3. The 12-month period measured forward from the date any employee's first FMLA

leave begins; or

4. A "rolling" 12-month period measured backward from the date an employee uses any FMLA leave.

i. Military Caregiver Leave

In the case of military caregiver leave, an eligible employee's FMLA leave entitlement is limited to a total of 26 workweeks of leave during a "single 12-month period." The "single 12-month period" is measured forward from the date an employee's first FMLA leave to care for the covered servicemember begins, regardless of the method used by RMA to determine the 12-month period for other FMLA leaves. During the "single 12-month period," an eligible employee's FMLA leave entitlement is limited to a combined total of 26 workweeks of FMLA leave for any qualifying reason.

Spouses who are employed by RMA may be limited to a combined total of 26 weeks of FMLA leave during the "single 12-month period" if leave is taken as military caregiver leave, for the birth of a son or daughter, for the placement of a child for adoption or foster care, or to care for a parent with a serious health condition.

ii. Summer Vacation and Other Extended Breaks

If RMA's activity temporarily ceases and employees generally are not expected to report for work for one or more weeks – e.g., a school closing for Spring Break or for the Christmas/New Year holiday – those days do not count against an employee's FMLA leave entitlement. Similarly, the time during summer vacation when the employee is not required to report to work does not count against the employee's FMLA leave entitlement.

c) ***Intermittent or Reduced Work Schedule Leave***

FMLA leave may be taken intermittently or on a reduced leave schedule under certain circumstances. "Intermittent leave" is FMLA leave taken in separate blocks of time due to a single qualifying reason. A "reduced leave schedule" is a leave schedule that reduces an employee's usual number of working hours per workweek, or hours per workday.

For leave taken because of the employee's own serious health condition, to care for a parent, son, or daughter with a serious health condition, or military caregiver leave, there must be a medical need for leave, and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. Leave due to a qualifying exigency may also be taken on an intermittent or reduced schedule basis.

When leave is taken after the birth of a healthy child or placement of a healthy child for adoption or foster care, an employee may take leave intermittently, or on a reduced leave schedule, only if RMA agrees.

i. *Transfer to an Alternative Position*

If an employee requests intermittent or reduced schedule leave that is foreseeable based on

planned medical treatment, RMA may require the employee to transfer temporarily to an available alternative position for which the employee is qualified, and which better accommodates recurring periods of leave than does the employee's regular position.

ii. Calculating Leave Use

When an employee takes leave on an intermittent or reduced schedule, only the amount of leave actually taken may be counted toward the employee's leave entitlement. RMA must account for intermittent or reduced schedule leave using an increment no greater than the shortest period of time that RMA uses to account for use of other forms of leave, provided the increment is not greater than one hour.

d) Special Rules for Instructional Employees

Special rules affect leave taken intermittently or on a reduced schedule, or taken near the end of an academic term (semester) by instructional employees.

"Instructional employees" are those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. It does not include teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include auxiliary personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.

i. Failure to Provide Notice of Foreseeable Leave

If an instructional employee does not give required notice of foreseeable leave to be taken intermittently or on a reduced schedule, RMA may require the employee to take leave of a particular duration or to transfer temporarily to an alternative position. Alternatively, RMA may require the employee to delay the taking of leave until the notice provision is met.

ii. Twenty Percent Rule

If an eligible instructional employee needs intermittent leave or leave on a reduced leave schedule to care for a family member with a serious health condition, to care for a covered servicemember, or for the employee's own serious health condition; the leave is foreseeable based on planned medical treatment; and the employee would be on leave for more than 20% of the total number of working days over the period the leave would extend, RMA may require the employee to choose:

1. To take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
2. To transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.

"Periods of a particular duration" means a block or blocks of time beginning no earlier than the first day for which leave is needed and ending no later than the last day on which leave is needed, and may include one uninterrupted period of leave. If an employee chooses to take leave for "periods of a particular duration" in the case of intermittent or reduced schedule leave, the entire period of leave taken will count as FMLA leave.

iii. Leave at the End of a Semester

As a rule, RMA may not require an employee to take more FMLA leave than the employee needs. The FMLA recognizes exceptions where instructional employees begin leave near the end of a semester. As set forth below, RMA may in certain cases require the employee to take leave until the end of the semester.

The school semester, or "academic term," typically ends near the end of the calendar year and the end of spring each school year. In no case may RMA have more than two academic terms or semesters each year for purposes of the FMLA.

If RMA requires the employee to take leave until the end of the semester, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. Any additional leave required by RMA to the end of the semester is not counted as FMLA leave; however, RMA shall maintain the employee's group health insurance and restore the employee to the same or equivalent job, including other benefits, at the end of the leave.

iv. More than Five Weeks Before the End of the Semester

RMA may require an instructional employee to continue taking leave until the end of the semester if:

1. The employee begins leave more than five weeks before the end of the semester;
2. The leave will last at least three weeks; and
3. The employee would return to work during the three-week period before the end of the semester.

v. During the Last Five Weeks of the Semester

RMA may require an instructional employee to continue taking leave until the end of the semester if:

1. The employee begins leave during the last five weeks of the semester for any reason other than the employee's own serious health condition or a qualifying exigency;
2. The leave will last more than two weeks; and
3. The employee would return to work during the two-week period before the end of the semester.

vi. During Last Three Weeks of the Semester

RMA may require an instructional employee to continue taking leave until the end of the semester if the employee begins leave during the three-week period before the end of the semester for any reason other than the employee's own serious health condition or a qualifying exigency.

e. Substitution of Paid Leave Time

Generally, FMLA leave is unpaid leave. However, an employee may choose to substitute accrued paid leave for unpaid FMLA leave. If an employee does not choose to substitute accrued paid leave, RMA may require the employee to do so. The. term "substitute" means that the paid leave provided by RMA, and accrued pursuant to established policies of RMA, will run concurrently with the unpaid FMLA leave. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of RMA normal leave policy.

i. FMLA and Workers' Compensation

A serious health condition may result from injury to the employee "on or off" the job. If RMA designates the leave as FMLA leave, the leave counts against the employee's FMLA leave entitlement. Because the workers' compensation absence is not unpaid, neither the employee nor RMA may require the substitution of paid leave. However, RMA and an employee may agree, where state law permits, to have paid leave supplement workers' compensation benefits.

If the health-care provider treating the employee for the workers' compensation injury certifies that the employee is able to return to a "light duty job" but is unable to return to the same or equivalent job, the employee may decline RMA's offer of a "light duty job." As a result, the employee may lose workers' compensation payments, but is entitled to remain on unpaid FMLA leave until the employee's FMLA leave entitlement is exhausted. As of the date workers' compensation benefits cease, the substitution provision becomes applicable and either the employee may elect or RMA may require the use of accrued paid leave.

f) Maintenance of Health Benefits

During any FMLA leave, RMA must maintain the employee's coverage under any group health plan on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period.

An employee may choose not to retain group health plan coverage during FMLA leave. However, when the employee returns from leave, the employee is entitled to be reinstated on the same terms as before taking leave without any qualifying period, physical examination, exclusion of pre-existing conditions, and the like.

i. <u>Payment of Premiums</u>

During FMLA leave, the employee must continue to pay his or her share of group health plan premiums. If premiums are raised or lowered, the employee would be required to pay the new premium rates.

ii. Failure to Pay Premiums

Unless RMA has an established policy providing a longer grace period, RMA obligations to maintain health insurance coverage cease if an employee's premium payment is more than 30 days late. In order to terminate the employee's coverage, RMA must provide written notice to the employee that the payment has not been received. Such notice must be mailed to the employee at least 15 days before coverage is to cease, advising that coverage will be dropped on a specified date at least 15 days after the date of the letter unless the payment has been received by that date. Coverage for the employee may be terminated at the end of the 30-day grace period, if the required 15-day notice has been provided.

Upon the employee's return from FMLA leave, RMA must still restore the employee to coverage/benefits equivalent to those the employee would have had if leave had not been taken and the premium payment(s) had not been missed. The employee may not be required to meet any qualification requirements imposed by the plan, including any new preexisting condition waiting period, to wait for an open season, or to pass a medical examination to obtain reinstatement of coverage.

iii. Recovery of Benefit Cost

If an employee fails to return to work after FMLA leave has been exhausted or expires, RMA may recover from the employee its share of health plan premiums during the employee's unpaid FMLA leave, unless the employee's failure to return is due to one of the reasons set forth in the regulations. RMA may not recover its share of health insurance premiums for any period of FMLA leave covered by paid leave.

g) Right to Reinstatement

On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when leave began, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to reinstatement even if the employee has been replaced or his or her position has been restructured to accommodate the employee's absence. However, an employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period.

i. Moonlighting During FMLA Leave

The Superintendent and/or designee may develop a uniformly applied policy governing outside or supplemental employment during FMLA leave. If the Superintendent/and or designee does not develop such a policy, RMA may not deny FMLA benefits on the basis of outside or supplemental employment unless the FMLA leave was fraudulently obtained.

ii. Reinstatement

The Superintendent and/or designee shall develop a policy governing the determination of how an employee is to be restored to “an equivalent position” upon return from FMLA leave. Such a policy must be in writing, must be made known to the employee before the taking of FMLA leave, must clearly explain the employee's restoration rights upon return from leave, and must provide substantially the same protections as provided in the FMLA.

Family and Medical Leave Act (FMLA) Restoration Policy

Policy Statement: RMA is committed to supporting employees who need to take Family and Medical Leave Act (FMLA) leave for qualifying reasons and ensuring their seamless return to the workforce. This policy outlines the procedures and expectations for the restoration of employees to an equivalent position upon their return from FMLA leave, in compliance with the FMLA regulations.

Scope: This policy applies to all eligible employees of RMA who are entitled to FMLA leave under federal law.

Policy Objectives:
Notification and Communication: Employees intending to take FMLA leave must notify their supervisor and the Human Resources Department as soon as practicable and follow the standard leave request procedure.

Upon receiving notice of the need for FMLA leave, RMA will provide the employee with information about their rights and responsibilities under FMLA, including the restoration process.

Equivalent Position: Upon the employee's return from FMLA leave, RMA will make reasonable efforts to reinstate the employee to their original position or an equivalent position with equivalent pay, benefits, and working conditions.

If the employee's original position is unavailable, RMA will place the employee in a substantially similar position that meets their skills and abilities.

Communication of Restoration Rights: RMA will provide written communication to employees detailing their restoration rights under FMLA before they begin their leave, or within five business days, whichever is sooner.

The communication will include information on the employee's entitlement to return to the same or an equivalent position, the benefits they will receive upon their return, and any changes in their employment status.

Coordination with Other Benefits: RMA will ensure that any benefits provided to employees during their FMLA leave will be reinstated upon their return in accordance with the FMLA guidelines.

Procedures:
Employee Notice: Employees must provide notice of their intent to take FMLA leave in accordance with company policies.

HR will promptly respond with FMLA leave designation and provide written information on restoration rights.

Communication of Restoration Rights: HR will provide written communication to the employee outlining their restoration rights, including details on reinstatement to the same or an equivalent position.

Equivalent Position Determination: HR, in consultation with the employee's supervisor, will determine the availability of the original position or an equivalent position based on business needs and the employee's qualifications.

Timely Restoration: RMA will make reasonable efforts to restore employees to their positions promptly upon their return from FMLA leave.

Non-Retaliation: RMA strictly prohibits retaliation against any employee for taking FMLA leave or exercising their rights under this policy. Any form of retaliation will be subject to disciplinary action, up to and including termination.

Review and Updates: This policy will be reviewed periodically and updated as necessary to ensure compliance with FMLA regulations and any changes in company practices.

Contact Information: For questions or concerns regarding this policy, please contact the Human Resources Department at 830-557-6181 opt. 3, or hr@rma-tx.org

Acknowledgment: I acknowledge that I have received, read, and understand RMA's FMLA Restoration Policy.

Pay Increases and Bonuses

An employee is entitled to any unconditional pay increases that may have occurred during the FMLA leave period, such as cost of living increases. Pay increases conditioned upon seniority, length of service, or work performed must be granted in accordance with RMA policy or practice with respect to other employees on an equivalent leave status for a reason that does not qualify as FMLA leave.

Equivalent pay includes any bonus or payment, whether it is discretionary or non-discretionary. However, if a bonus or other payment is based on the achievement of a specified goal such as hours worked, products sold, or perfect attendance, and the employee has not met the goal due to FMLA leave, then the payment may be denied, unless otherwise paid to employees on an equivalent leave status for a reason that does not qualify as FMLA leave. For example, if an employee who used paid vacation leave for a non-FMLA purpose would receive the payment,

then an employee who used paid vacation leave for an FMLA-protected purpose also must receive the payment.

a. Key Employees

RMA may deny job restoration to a key employee, as that term is defined in law, if such denial is necessary to prevent substantial and grievous economic injury to the operations of RMA.

SEC. 3. NOTICES AND MEDICAL CERTIFICATION

a) Required Notices

The Superintendent shall ensure that a notice explaining the FMLA and containing information regarding the procedures for filing complaints with the Department of Labor's Wage and Hour Division is posted prominently at each campus where it is readily visible to employees and applicants for employment. The Superintendent shall also ensure that such notice is included in RMA's Employee Handbook and distributed to each new employee upon hiring.

If a significant portion of RMA's workforce is not literate in English, the Superintendent shall provide the general notice in a language in which the employees are literate.

The Superintendent may use Department of Labor form WHD 1420 or another form of notice, so long as the notice includes, at a minimum, all of the information contained in form WHD 1420.

i. *Eligibility Notice*

When an employee requests FMLA leave, or when RMA learns that an employee's leave may be for an FMLA-qualifying reason, the employee's immediate supervisor shall notify the employee of his or her eligibility to take FMLA leave. For purposes of this policy, the immediate supervisor of a teacher shall be the Principal. If the employee is not eligible for FMLA leave, the notice must explain why the employee is not eligible.

The employee's immediate supervisor shall provide the eligibility notice within five business days, absent extenuating circumstances. RMA shall translate the notice in any situation in which it is required to translate the general notice.

ii. *Rights and Responsibilities Notice*

RMA shall provide a written notice of rights and responsibilities each time an eligibility notice is provided to an employee. This notice must include the information required by 29 CFR 825.300(c)(1). The notice may be distributed electronically if it meets the other requirements of this section. RMA shall translate the notice in any situation in which it is required to translate the general notice.

iii. *Designation Notice*

When RMA has enough information to determine whether leave is being taken for an FMLA-qualifying reason, RMA must notify the employee whether the leave will be designated as FMLA leave. If RMA determines that the leave will not be designated as FMLA-qualifying, RMA must notify the employee of that determination. Absent extenuating circumstances, the designation notice must be provided within five business days. The notice must include the information required by 29 CFR 825.300(d)(1), (d)(3), and (d)(6). RMA shall translate the notice in any situation in which it is required to translate the general notice.

iv. *Retroactive Designation*

RMA may retroactively designate leave as FMLA leave, with appropriate notice to the employee, if RMA's failure to timely designate leave does not cause harm or injury to the employee. RMA and an employee may also agree that leave will retroactively be designated as FMLA leave.

b) Requests for FMLA Leave

An employee giving notice of the need for FMLA leave must state a qualifying reason for the leave and otherwise satisfy the requirements for notice of foreseeable and unforeseeable leave, as described below. The employee need not expressly assert rights under the Act or even mention the FMLA.

Employees should request FMLA leave by notifying the Human Resources Coordinator or designee, and must complete the Department of Labor's form WH-380-E (or WH-380-F as appropriate) made available from the Department of Labor or RMA's administrative offices. Completed forms should be returned to the Human Resources Coordinator.

i. *Foreseeable Leave*

An employee must provide his or her immediate supervisor at least 30 days' advance notice before FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, planned medical treatment for a serious health condition of the employee or of a family member, or the planned medical treatment for a serious injury or illness of a covered service member. If 30 days' notice is not practicable, the employee must give notice as soon as practicable, generally on the same day as or next business day after the reason for the leave is known. For leave due to a qualifying exigency, the employee must provide notice as soon as practicable regardless of how far in advance the leave is foreseeable.

When planning medical treatment, the employee must consult with his or her immediate supervisor and make a reasonable effort to schedule the treatment so as not to disrupt unduly RMA operations, subject to the approval of the health-care provider.

ii. *Unforeseeable Leave*

When the approximate timing of leave is not foreseeable, an employee must provide notice to his or her immediate supervisor as soon as practicable under the facts and circumstances of the

particular case. If an employee does not comply with usual notice and procedural requirements, and no unusual circumstances justify the failure to comply, FMLA leave may be delayed or denied.

iii. *Compliance with RMA Requirements*

RMA may require an employee to comply with its usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances. If an employee does not comply with usual notice and procedural requirements, and no unusual circumstances justify the failure to comply, FMLA leave may be delayed or denied.

c) Certification of Leave

RMA may require that an employee's FMLA leave be supported by certification, as described below. RMA shall give notice of a requirement for certification each time certification is required. At the time RMA requests certification, RMA must advise the employee of the consequences of failure to provide adequate certification.

i. *Timing*

In most cases, the employee's immediate supervisor will request certification at the time the employee gives notice of the need for leave or within five business days thereafter or, in the case of unforeseen leave, within five business days after the leave commences. RMA may request certification at a later date if RMA later has reason to question the appropriateness of the leave or its duration. The employee must provide the requested certification to his or her immediate supervisor within 15 calendar days after RMA's request, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

ii. *Incomplete or Insufficient Certification*

RMA shall advise an employee if it finds a certification incomplete or insufficient and shall state in writing what additional information is necessary to make the certification complete and sufficient. RMA must provide the employee with seven calendar days (unless not practicable under the particular circumstances despite the employee's diligent, good faith efforts) to cure any such deficiency.

A certification is "incomplete" if one or more of the applicable entries have not been completed. A certification is "insufficient" if it is complete, but the information provided is vague, ambiguous, or non-responsive. A certification that is not returned to RMA is not considered incomplete or insufficient, but constitutes a failure to provide certification.

iii. *Medical Certification of Serious Health Condition*

When leave is taken because of an employee's own serious health condition, or the serious health condition of a family member, RMA may require the employee to obtain medical certification from a health-care provider. RMA may use the U.S. Department of Labor ("DOL") optional form WH-380-E when the employee needs leave due to the employee's own serious health

condition and optional form WH-380-F when the employee needs leave to care for a family member with a serious health condition. RMA may not require information beyond that specified in the FMLA regulations.

An employee may choose to comply with the certification requirement by providing RMA with an authorization, release, or waiver allowing RMA to communicate directly with the health-care provider.

For the definition of "health-care provider," see 29 CFR 825.125.

iv. *Genetic Information*

When requesting medical certification, RMA shall comply with all requirements for requesting medical information under the Genetic Information Nondiscrimination Act ("GINA") as contained in 29 CFR 1635.8(b)(1)(i)(A).

v. *Authentication and Clarification*

If an employee submits a complete and sufficient certification signed by the health-care provider, RMA may not request additional information from the health-care provider. However, RMA may contact the health-care provider for purposes of clarification and authentication of the certification after RMA has given the employee an opportunity to cure any deficiencies, as set forth above. To make such contact, RMA must use a health-care provider, a human resources professional, a leave administrator, or a management official. Under no circumstances may the employee's direct supervisor contact the employee's health-care provider.

"Authentication" means providing the health-care provider with a copy of the certification and requesting verification that the information on the form was completed and/or authorized by the health-care provider who signed the document; no additional medical information may be requested.

"Clarification" means contacting the health-care provider to understand the handwriting on the certification or to understand the meaning of a response. RMA may not ask the health-care provider for additional information beyond that required by the certification form. The requirements of the Health Insurance Portability and Accountability Act ("HIPAA") Privacy Rule must be satisfied when individually identifiable health information of an employee is shared with RMA by a HIPAA-covered health-care provider.

vi. *Second and Third Opinions*

If RMA has reason to doubt the validity of a medical certification, RMA may require the employee to obtain a second opinion at RMA's expense. If the opinions of the employee's and RMA's designated health-care providers differ, RMA may require the employee to obtain certification from a third health-care provider, again at RMA's expense.

vii. *Foreign Medical Certification*

If the employee or a family member is visiting another country, or a family member resides in another country, and a serious health condition develops, RMA shall accept medical certification as well as second and third opinions from a health-care provider who practices in that country. If the certification is in a language other than English, the employee must provide RMA with a written translation of the certification upon request.

viii. *Recertification*

RMA may request recertification no more often than every 30 days and only in connection with an absence by the employee, except as set forth in the FMLA regulations. RMA must allow at least 15 calendar days for the employee to provide recertification.

As part of the recertification for leave taken because of a serious health condition, RMA may provide the health-care provider with a record of the employee's absence pattern and ask the health-care provider if the serious health condition and need for leave is consistent with such a pattern.

ix. *Certification—Qualifying Exigency Leave*

The first time an employee requests leave because of a qualifying exigency, RMA may require the employee to provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates of the covered military member's active duty service.

RMA may also require that the leave be supported by a certification that addresses the information at 29 CFR 825.309(b). RMA may use DOL optional form WH-384, or another form containing the same basic information, for this certification. RMA may not require information beyond that specified in the regulations.

x. *Certification—Military Caregiver Leave*

When an employee takes military caregiver leave, RMA may require the employee to obtain a certification completed by an authorized health-care provider of the covered servicemember. In addition, RMA may request that the employee and/or covered servicemember address in the certification the information at 29 CFR 825.310(c). RMA may also require the employee to provide confirmation of a covered family relationship to the seriously injured or ill servicemember.

RMA may use DOL optional form WH-385, or another form containing the same basic information, for this certification. RMA may not require information beyond that specified in the regulations. RMA must accept as sufficient certification "invitational travel orders" ("ITOs") or "invitational travel authorizations" ("ITAs") issued to any family member to join an injured or ill servicemember at his or her bedside.

RMA may seek authentication and/or clarification of the certification under the procedures described above. Second and third opinions, and recertifications, are not permitted for leave to care for a covered servicemember.

d) Intent to Return to Work

The Superintendent may develop a uniformly applied policy or practice that requires an employee on FMLA leave to report periodically on the employee's status and intent to return to work. Such a policy may not be discriminatory and must take into account all of the relevant facts and circumstances related to the individual employee's leave situation.

i. *Fitness for Duty Certification*

The Superintendent may develop a uniformly applied policy or practice that requires all similarly situated employees (i.e., same occupation, same serious health condition) who take leave for such conditions to obtain and present certification from the employee's health-care provider that the employee is able to resume work. The Superintendent may require that the certification specifically address the employee's ability to perform the essential functions of the employee's job.

ii. *Failure to Provide Certification*

If the employee fails to provide RMA a complete and sufficient certification, despite the opportunity to cure, or fails to provide any certification, RMA may deny the taking of FMLA leave. This provision applies in any case where RMA requests a certification, including any clarifications necessary to determine if certifications are authentic and sufficient.

SEC. 4. MISCELLANEOUS PROVISIONS

a) Record Maintenance

The Superintendent and/or designee shall make, keep, and preserve records pertaining to its obligations under the FMLA in accordance with the recordkeeping requirements of the Fair Labor Standards Act ("FLSA") and the FMLA regulations. RMA shall keep these records for no less than three years and make them available for inspection, copying, and transcription by representatives of the Department of Labor upon request. Such records may be kept in computer form, so long as they are made available for transcription or copying.

If the GINA is applicable, records and documents created for purposes of FMLA leave that contain family medical history or genetic information shall be maintained in accordance with the confidentiality requirements of GINA, which permit such information to be disclosed consistent with the requirements of the FMLA. If the Americans with Disabilities Act ("ADA") is also applicable, such records shall be maintained in conformance with ADA confidentiality requirements, except as excepted by the FMLA.

b) Prohibition Against Discrimination and Retaliation

RMA shall not interfere with an employee's rights under the FMLA, or with legal proceedings or inquiries relating to an employee's rights. Specifically, RMA shall not:

1. Interfere with, restrain, or deny the exercise of (or attempts to exercise) any rights provided by the FMLA.
2. Discharge or in any other way discriminate against any person (whether or not an employee) for opposing or complaining about any unlawful practice under the FMLA.
3. Discharge or in any other way discriminate against any person (whether or not an employee) because that person has:

a. Filed any charge, or has instituted (or caused to be institute) any proceeding under or related to the FMLA;
b. Given, or is about to give, any information in connection with an inquiry or proceeding relating to a right under the FMLA; and/or
c. Testified, or is about to testify, in any inquiry or proceeding relating to a right under the FMLA.

PG-4.601 BUILDING USE

RMA employees seeking to schedule use of RMA buildings and facilities must submit a request for such use to the principal, superintendent, or Executive Director of School Operations and Facilities.

PG-4.602 SOLICITATION AND DISTRIBUTION OF PROMOTIONAL MATERIALS AND DIETARY SUPPLEMENTS

SEC. 1. PROHIBITION ON SOLICITATION AND DISTRIBUTION OF PROMOTIONAL MATERIALS

RMA prohibits solicitation of employees by salespersons or other employees on RMA property.

RMA further prohibits the distribution of promotional or sales literature on RMA property by salespersons or employees at all times.

Commercial advertisements or sales for personal profit are also prohibited.

SEC. 2. PROHIBITION ON DIETARY SUPPLEMENTS

Employees of RMA may not:

1. Knowingly sell, market, or distribute a dietary supplement that contains performance enhancing compounds to a primary or secondary education student with whom the employee has contact as part of the employee's school duties; or
2. Knowingly endorse or suggest the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by a primary or

secondary education student with whom the employee has contact as part of the employee's school duties.

However, RMA employees are not prohibited from:

1. Providing or endorsing a dietary supplement that contains performance enhancing compounds to, or suggesting the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by, the employee's child; or
2. Selling, marketing, or distributing a dietary supplement that contains performance enhancing compounds to, or endorsing or suggesting the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by, a primary or secondary education student as part of activities that:
   a. Do not occur on RMA property or at a school-related function;
   b. Are entirely separate from any aspect of the employee's employment with RMA; and
   c. Do not in any way involve information about or contacts with students that the employee has had access to, directly or indirectly, through any aspect of the employee's employment with RMA.

For purposes of this policy:

1. "Dietary supplement" means a product (other than tobacco) intended to supplement the diet that bears or contains one or more of the following dietary ingredients:
   a. A vitamin;
   b. A mineral;
   c. An herb or other botanical;
   d. An amino acid;
   e. A dietary substance for use by man to supplement the diet by increasing the total dietary intake; or
   f. A concentrate, metabolite, constituent, extract, or combination of any ingredient described in items (a)-(e).
2. "Performance enhancing compound" means a manufactured product for oral ingestion, intranasal application, or inhalation that:
   a. Contains a stimulant, amino acid, hormone precursor, herb or other botanical, or any other substance other than an essential vitamin or mineral; and
   b. Is intended to increase athletic or intellectual performance, promote muscle growth, or increase an individual's endurance or capacity for exercise.

Tex. Educ. Code 38.011.

PG-4.603 INTELLECTUAL PROPERTY

SEC. 1. OWNERSHIP OF INTELLECTUAL PROPERTY

All copyrights, trademarks, and other intellectual property rights shall remain with RMA at all times.

b. Student Work

A student shall retain all rights to work created as part of instruction or using RMA technology resources.

c. Employee Work

As an agent of RMA, an RMA employee shall not have rights to work he or she creates on RMA time or using RMA technology resources. RMA shall own any work or work product created by an RMA employee in the course and scope of his or her employment, including the right to obtain copyrights.

If the employee obtains a patent for such work, the employee shall grant a non-exclusive, non-transferable, perpetual, royalty-free, district-wide license to RMA for use of the patented work. An RMA employee shall own any work or work product produced on his or her own time, away from his or her job and with personal equipment and materials, including the right to obtain patents or copyrights.

An RMA employee may apply to the superintendent or designee to use RMA materials and equipment in his or her creative projects, provided the employee agrees either to grant to RMA a non-exclusive, non-transferable, perpetual, royalty-free, district-wide license to use the work, or permits RMA to be listed as co-author or co-inventor if RMA's contribution to the work is substantial. RMA materials do not include student work, all rights to which are retained by the student.

d. Works Made for Hire

A "work made for hire" is:

1. A work prepared by an RMA employee within the scope of employment; or
2. A work specially ordered or commissioned for use as a contribution to a collective work (for example, a supplementary work, a test, an instructional text, answer material for a test,

etc.) if the parties agree in a signed written instrument that the work is considered a work made for hire.

RMA may hire an independent contractor for specially commissioned work(s) under a written works-made-for-hire agreement that provides that RMA shall own the work product created under the agreement, as permitted by copyright law. Independent contractors shall comply with copyright law in all works commissioned.

e. Return of Intellectual Property

Upon the termination of any person's association with RMA, all permission to possess, receive, or modify RMA's intellectual property shall also immediately terminate. All such persons shall return to RMA all intellectual property, including but not limited to any copies, no matter how kept or stored, and whether directly or indirectly possessed by such person.

SEC. 2. USE OF COPYRIGHTED MATERIAL

Unless the proposed use of a copyrighted work is an exception under the "fair use" guidelines maintained by the superintendent or designee, RMA shall require an employee or student to obtain a license or permission from the copyright holder before copying, modifying, displaying, performing, distributing, or otherwise employing the copyright holder's work for instructional, curricular, or extracurricular purposes. This policy does not apply to any work sufficiently documented to be in the public domain.

a. Technology Use

All persons are prohibited from using RMA technology in violation of any law including copyright law. Only appropriately licensed programs or software may be used with RMA technology resources. No person shall use RMA's technology resources to post, publicize, or duplicate information in violation of copyright law. The Board shall direct the superintendent or designee to employ all reasonable measures to prevent the use of RMA technology resources in violation of the law. All persons using RMA technology resources in violation of law shall lose user privileges in addition to other sanctions.

b. Electronic Media

Unless a license or permission is obtained, electronic media in the classroom, including motion pictures and other audiovisual works, must be used in the course of face-to-face teaching activities as defined by law.

SEC. 3. TRADEMARK USE

RMA protects all RMA and campus trademarks, including names, logos, mascots, and symbols, from unauthorized use.

a) School-Related Use

RMA grants permission to students, student organizations, parent organizations and other RMA affiliated school-support or booster organizations to use, without charge, RMA and campus trademarks to promote a group of students, an activity or event, a campus, or RMA, if the use is in furtherance of school-related business or activity. The superintendent or designee shall determine what constitutes use in furtherance of school-related business or activity and is authorized to revoke permission if the use is improper or does not conform to administrative regulations.

b) Public Use

Members of the general public, outside organizations, vendors, commercial manufacturers, wholesalers, and retailers shall not use RMA trademarks without the written permission of the superintendent or designee. Any production of merchandise with RMA trademarks for sale or distribution must be pursuant to a trademark licensing agreement and may be subject to the payment of royalties. Any individual, organization, or business that uses RMA trademarks without appropriate authorization shall be subject to legal action.

PG-4.604 TECHNOLOGY RESOURCES

SEC. 1. TECHNOLOGY RESOURCES DEFINED

For purposes of this policy, the term "technology resources" means electronic communication systems and electronic equipment belonging to RMA.

SEC. 2. ACCESS TO TECHNOLOGY RESOURCES

RMA's technology resources, including its network and access to the Internet, are made available to employees primarily for administrative and instructional purposes or as otherwise allowed by administrative regulation.

Limited personal use of RMA's technology resources is permitted if the use:

1) Does not result in any direct cost paid with State funds, or if RMA is reimbursed for any direct costs involved;
2) Does not relate to private commercial purposes;
3) Involves only incidental amounts of employee time, comparable to reasonable coffee breaks during the day; and
4) Does not have an adverse impact on an employee's job performance.

Employees may only access the Internet through RMA's approved Internet firewall.

All technology resources are RMA property, and any information located in or on technology resources is also RMA property and will be subject to inspection by RMA.

SEC. 3. E-MAIL AND VOICE MAIL SYSTEMS

All messages sent, received, composed and/or stored on RMA e-mail and/or voice mail systems are the property of RMA. E-mail transmissions and other use of RMA's electronic communications systems are not confidential and can be monitored at any time to ensure appropriate use.

SEC. 4. CONFIDENTIALITY

Employees shall not use a password, access a file, or retrieve any stored information unless authorized to do so. Employees may not attempt to gain access to another employee's files/messages.

Additionally, access to student records accessible through technology resources is restricted to those employees with a legitimate educational interest in such records in accordance with the Family Educational Rights and Privacy Act ("FERPA"). An employee has a legitimate educational interest in student records if:

1. The information is necessary for the employee to perform appropriate tasks that are specified in his or her position;
2. The information is to be used within the context of official school business and not for purposes extraneous to the employee's areas of responsibility;
3. The information is relevant to the accomplishment of some task or to a determination about the student; or

4. The information is to be used consistently with the purpose for which student records are maintained.

Having access to student records through technology resources does not constitute authority to share this information with anyone without authority or permission to view student records.

SEC. 5. PRIVACY AND MONITORED USE

All files and messages on RMA's technology resources are RMA property. They are not the property of any employee, even if created by an employee. Anything created on the Internet may, and likely will, be reviewed by others. If necessary, employees shall take steps to help protect the security of documents. RMA has the right, but not the duty, to monitor any and all aspects of its technology resources, including, but not limited to, monitoring sites employees visit on the Internet. Employees have no expectation of privacy in anything they create, store, send, or receive on RMA's technology resources.

SEC. 6. RESTRICTIONS

1) Employees are not allowed to use RMA's technology resources for any reason other than official school business, except as allowed under Section 2 (Access to Technology Resources) above.
2) Employees may not use e-mail or the Internet to send or receive materials, proprietary financial information, or other similar materials that violate copyright law.
3) RMA's e-mail system may not be used to create any offensive or disruptive messages. Among those which are considered offensive are any messages that contain sexual implications, racial or gender-specific slurs, or any other comment that offensively addresses an individual's age, sexual orientation, religious or political beliefs, national origin, disability, or anything that could be construed as harassment or disparaging of others.
4) Employees should refrain from sending non-business-related e-mails to other RMA employees or persons outside the RMA system.
5) RMA is responsible for maintaining records of software licensing agreements for RMA. In order to ensure compliance with copyright laws and software licensing agreements, and help prevent computer viruses from being transmitted through the system, employees are not permitted to install or download any software or content, such as music, videos, or non-work related "zipped" files onto RMA's computer system without prior approval from the principal or designee.
6) Unauthorized duplication of software, often referred to as "piracy," is a federal crime. Employees are not permitted to make, acquire, or use unauthorized copies of computer software.

Employees who are authorized to use RMA's technology resources are required to abide by the provisions of this policy and any related administrative procedures. Failure to do so can result in suspension or termination of privileges and may lead to disciplinary action, up to and including termination of employment. Employees should notify their immediate supervisor(s) or the Executive Director of School Operations and Facilities upon learning of violations of this policy.

SEC. 7. ACCEPTABLE USE POLICY

The superintendent or designee shall develop and implement administrative regulations and guidelines for acceptable use of RMA's technology resources. Such regulations and guidelines shall be provided annually to employees as part of the Employee Handbook, or in another method deemed appropriate by the superintendent.

Access to RMA's technology resources is a privilege, not a right. All employee users will be required to acknowledge receipt and understanding of RMA's acceptable use regulations and guidelines, and shall agree in writing to allow monitoring of their use and to comply with such regulations and guidelines. Noncompliance with RMA's acceptable use policy may result in disciplinary action, up to and including termination, as allowed by RMA policy. Violations of law may result in referral to criminal authorities, as well as disciplinary action by RMA.

SEC. 8. DISCLAIMER OF LIABILITY

RMA will not be liable for an employee's inappropriate use of technology resources, violations of copyright restrictions or other laws, users' mistakes or negligence, and costs incurred by users. RMA is not responsible for ensuring the availability of technology resources or the accuracy, age appropriateness, or usability of any information accessed through the Internet.

SEC. 9. ACCESS TO CELLULAR AND/OR WIRELESS TELEPHONE EQUIPMENT AND ACCOUNTS

Access to cellular and/or wireless telephone equipment and accounts belonging to RMA is made available exclusively for instructional and administrative purposes in accordance with guidelines and regulations developed by RMA. Access to this equipment is a privilege, not a right, and can be revoked at any time.

The superintendent or designee shall develop and define guidelines for the responsible and ethical use of RMA-supplied telephone equipment and accounts. Such guidelines shall be distributed to all RMA employees.

a. Consequences for Violations

Violations of RMA's guidelines for access to cellular and/or wireless telephone equipment and accounts will be treated like other allegations of wrongdoing. Allegations of misconduct will be adjudicated according to established procedures. Sanctions for violations of these guidelines may include, but are not limited to, one or more of the following:

1. Temporary or permanent revocation of access to some or all cellular or wireless telephone resources.
2. Disciplinary action, up to and including termination.
3. Legal action according to applicable laws and contractual agreements.

SEC. 10. RECORD RETENTION

RMA employees shall retain electronic records pertaining to RMA business, whether created or maintained using RMA's technology resources or using personal technology resources, in accordance with RMA's record management program.

PG-4.605 SOCIAL MEDIA AND ELECTONIC COMMUNICATIONS WITH STUDENTS

Sec. 1. ELECTRONIC AND SOCIAL MEDIA

Electronic media includes all forms of social media, such as text messaging, instant messaging, electronic mail (e-mail), web logs (blogs), electronic forums (chat rooms), video-sharing web sites, editorial comments posted on the Internet, and social network sites. Electronic media also includes all forms of telecommunication, such as land lines, cell phones, and web-based applications.

Sec. 2. SCHOOL-OWNED SOCIAL MEDIA ACCOUNTS

a. *General Guidelines*

RMA may provide employees with access to social media applications or accounts. Only public information is permitted to be posted by RMA employees on school-owned social media websites. If communication that takes place on a school-owned social media websites involves or requires private information, communication will be redirected through other appropriate channels.

RMA retains ownership of all school-owned social media applications or accounts used for school business.

b. Content of Social Media Posts

All content posted by employees to school-owned social media accounts is subject to monitoring. Employees are strictly prohibited from using school-owned social media accounts to post material(s) that:

- Advertises or promotes a commercial product or service, or any entity or individual;
- Are obscene or that appeal to the prurient interest;
- Consist of personal attacks or insulting statements directed toward an individual;
- Contain offensive terms that target protected classes;
- Contains information that reasonably could compromise public safety;
- Incites or promotes violence or illegal activities;
- Include personal identifying information or sensitive personal information, as defined by Chapter 521 of the Texas Business and Commerce Code;
- Is of a repetitive or "spamming" nature (the same comment posted multiple times)
- Is threatening, harassing or discriminatory; or
- Promotes or endorses political campaigns or candidates.

c. Password Security

Employees granted access to school-owned social media accounts must maintain the security of any password used to access the account. In the event an employee changes a password to a school-owned social media account, the employee must provide the RMA with the updated password or similar login credentials used to access the account.

d. Policy Violations

Employees who violate RMA's standards for use of school-owned social media accounts are subject to discipline, up to and including termination.

Sec. 3. ELECTRONIC COMMUNICATIONS WITH STUDENTS

a. Introduction

In this policy, "electronic communication" means any communication facilitated by the use of any electronic device, including a telephone, cellular telephone, computer, computer network, personal data assistant, or pager. The term includes e-mails, text messages, instant messages, and any communications made through an Internet website, including a social media website or a social networking website.

b. Electronic Communications with Students

RMA employees may engage in electronic communications with students who are currently enrolled in RMA for academic purposes only. All other employees are prohibited from communicating electronically with a student who is enrolled in RMA unless express authorization is provided by the Superintendent or designee. An employee is not subject to these provisions to the extent he or she has a social or family relationship with a student.

i. *Inappropriate Communications*

RMA employees are prohibited from using electronic communications in a manner that constitutes prohibited harassment or abuse of a RMA student; adversely affects a student's learning, mental health, or safety; includes threats of violence against a student; reveals confidential information about a student; or constitutes an inappropriate communication with a student.

Factors that may be considered in assessing whether the communication is inappropriate include, but are not limited to:

- The nature, purpose, timing, and amount of the communication;
- The subject matter of the communication;
- Whether the communication was made openly or the educator attempted to conceal the communication;
- Whether the communication could be reasonably interpreted as soliciting sexual contact or a romantic relationship ;
- Whether the communication was sexually explicit; and
- Whether the communication involved discussion(s) of the physical or sexual attractiveness or the sexual history, activities, preferences, or fantasies of either the educator or the student.

ii. *No Expectation of Privacy*

RMA employees have no expectation of privacy in electronic communications with students. Employees shall comply with RMA's requirements for record retention and destruction to the extent those requirements apply to electronic communications with students.

c. Incident Notification

A RMA employee shall report to the Principal any incident in which a student engages in improper communications with the employee. Such reports should include a summary of the student's communication, as well as the time, date, and method of communication.

d. Disclosing Personal Telephone Number or E-mail Address

A RMA employee may elect not to disclose to students the employee's personal telephone number or e-mail address.

Sec. 4. PERSONAL USE

Employees shall be held to the same professional standards in their public use of social media and/or electronic media as they are for any other public conduct. If an employee's use of social media and/or electronic media violates state or federal law or RMA policy, or interferes with the employee's ability to effectively perform his or her job duties, the employee is subject to disciplinary action, up to and including termination of employment.

TPCSA Model Board Policy Series

Module 5 – *Fiscal Management*

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PG-5.001: Authority Over Fiscal Matters

Sec. 1. Purpose of Policy.

Through this policy, the Board of Directors (hereafter, the "Board") of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, RMA) shall address the legal requirements, as applicable, promulgated at:

(a) Texas Business Organizations Code ("Tex. Bus. Org. Code") Sections 3.101, 22.201, 22.221 and 22.235;
(b) Texas Education Code ("Tex. Ed. Code") Sections 12.111(a)(16), 12.115(a)(2) and 12.121;
(c) Texas Administrative Code, Title 19 ("19 TAC"), §§ 100.1033 and 100.1101;
(d) Code of Federal Regulations, Title 2 ("2 CFR"), § 200.303;
(e) *Standards for Internal Control in the Federal Government* (September 2014) promulgated by the Comptroller General of the United States;
(f) *Internal Control – Integrated Framework* (2013 Update) issued by Committee of Sponsoring Organizations of the Treadway Commission;
(g) *Government Auditing Standards* (2018 Revision) promulgated by the U.S. Government Accountability Office; and
(h) Financial Accountability System Resource Guide.

Sec. 2. Applicability.

This policy shall act as a keystone fiscal policy and shall apply to all other Board policies or administrative procedures. In the event of any conflict with other Board policy or administrative procedure, the requirements set forth in this policy shall prevail and govern. Accordingly, Board policies should include an appropriate reference to this policy.

Sec. 3. Final Authority.[1]

Sec. 3.1. Absent a specific delegation of a power or duty (as approved by the commissioner of education, where applicable), the Board may not delegate, and thus retains, functioning as a body corporate, final authority to exercise the following powers and duties:

(a) Adopt and amend policy;
(b) Adopt and amend the budget;
(c) Approve amendments to RMA's charter with TEA;
(d) Approve the use of property;[2]

[1] Tex. Bus. Org. Code §§ 3.101 and 22.201; Tex. Ed. Code §§ 12.111(a)(16) and 12.121; 19 TAC §§ 100.1033(b)(14)(C)(ii) -(iv) and 100.1101(a)/(d)

[2] At 19 TAC § 100.1001(6), certain economic and financial resources, such as cash, bank accounts, loans and other such items, are defined as personal property. At 19 TAC § 100.1063(a), personal property is public property. Consequently, the use of public property, such as cash, bank accounts, and loans, are subject to the Board's final authority.

(e) Approve the purchase, lease or sale of real property;[3]

(f) Approve the annual financial and compliance report;
(g) Set compensation for the Superintendent and employees through the adoption of policy and the annual operating budget, including RMA's salary and wage schedules;
(h) Approve contracts for the acquisition of personal property;[4]
(i) Amend its governing documents (articles of incorporation or certificate of formation, corporate bylaws and any other document or record establishing the protocols and practices of the Board and Richard Milburn Academy) subject to approval of a charter amendment by the commissioner of education; and
(j) Establish and staff committees to support the Board with its fiscal oversight of RMA's business affairs, finances and operations.

Sec. 3.2. This final authority notwithstanding, the Board hereby authorizes their Delegate as the Superintendent, to initially exercise the authority set forth in this policy.

Sec. 3.3. In accordance with applicable Board policy, the Delegate shall report to the Board any business arrangement or transaction with an individual that is an officer, and any conflicted,[5] interested,[6] or related[7] party, as defined in other Board policy or applicable law, expressly including family members by blood or marriage to the third-degree. RMA and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 3.4. At the Board's discretion, the Board may, at any time, review any business arrangement or transaction subject to this policy and approve or disapprove the Delegate's initial action on the Board's behalf.

Sec. 3.5. Any delegation of authority notwithstanding, the Board remains responsible for any business arrangement or transaction undertaken by the Delegate.[8]

Sec. 4. Designee.
Sec. 4.1. Any delegation of authority notwithstanding, the Delegate remains responsible for the business arrangement or transaction undertaken or that should have been undertaken pursuant to

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3 Tex. Ed. Code § 12.106(f)(4). 19 TAC § 100.1101(b), (c) requires that the Board of a Richard Milburn Academy/Texas, Inc. Maintain the primary responsibility for implementing the public Richard Milburn Academy program authorized by the open-enrollment charter and ensuring the performance of the students enrolled in its Richard Milburn Academy's in accordance with the Tex. Ed. Code. The rule further provides, under (b)(1), that "An open-enrollment charter grants to the governing body of a Richard Milburn Academy/Texas, Inc. The authority to operate a Richard Milburn Academy" and, under (b)(2), that, "Except as provided by this section, the governing body's powers and duties to operate the Richard Milburn Academy shall not be delegated, transferred, assigned, encumbered, pledged, subcontracted, or in any way alienated by the governing body of the Richard Milburn Academy/Texas, Inc.. Any attempt to do so shall be null and void and of no force or effect and shall constitute abandonment of the contract for charter."

4 *See* 19 TAC § 100.1001(6) and 2 CFR § 200.1 for legal definitions of personal property.

5 Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

6 19 TAC § 100.1047(f)

7 Tex. Ed. Code § 12.1166

8 Tex. Ed. Code § 12.121; 19 TAC § 100.1101(d)

this and other Board policy, including the reporting and accounting of business expenses by RMA officers and employees.

Sec. 5. Officer. For the purposes set forth in this and other Board policy, Officer means a person charged with the duties of, or acting as, a chief executive officer, a central administration officer, a campus administration officer, or a business manager.

Sec. 6 Board Authorization Required.
Sec. 6 .1. Consistent with the Board's fiduciary duties and standard of care established under applicable law, the Delegate shall present to the Board for approval any business arrangement or transaction with a cost or value of $50,000 or that relates to an officer of this policy, or conflicted, interested, or related party, as defined in other Board policy or applicable law.

Sec. 7. Prudent Person Rule. [9]
In their use of the funds, property and other organizational resources, such as established lines of credit and the talents of and time worked by employees and contractors, directors and employees shall limit their use of funds and property to purposes pertaining to RMA's mission and to those activities, functions, programs, and services that are ordinary and necessary for the conduct of RMA's mission. Importantly, in their use of funds, directors and employees shall only incur costs that, by their nature and amount, do not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time that the decision was made to incur the cost.

Sec. 8. Abuse and Waste Prohibited.
Sec. 8.1. Directors and employees shall not abuse or waste funds, property and other organizational resources, such as established lines of credit and the talents of and time worked by employees and contractors.

Sec. 8.2. For purposes of this policy, abuse is defined as behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances. Abuse includes misuse of authority or position for personal financial interests or those of an immediate or close family member or business associate.[10]

Sec. 8.3. For purposes of this policy, waste is defined as the act of using or expending resources carelessly, extravagantly, or to no purpose. In this context, waste relates primarily to mismanagement, inappropriate actions, and inadequate oversight.[11]

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[11] *Government Auditing Standards*, Sec. 6.21, 7.23 and 8.120

PG-5.002: CODE OF ETHICS AND FISCAL STEWARDSHIP

Sec. 1. Mission Statement.
"Empowering Students to Graduate, Prepared to Exceed All Expectations"

Sec. 2. Board Stewardship.
It is the policy of RMA to advocate for and issue financial decisions and practices that both further the mission of RICHARD MILBURN ACADEMY/TEXAS, INC., as described above, and that are made in the interest of RICHARD MILBURN ACADEMY/Texas, Inc. in compliance with its fiduciary duty owed to RMA students.

As such, the Board of Directors ("Board") shall make financial decisions with integrity, fairness, objectivity, and that maximize benefits while minimizing the cost of goods and services to RICHARD MILBURN ACADEMY/TEXAS, INC.

The Board shall, as a body corporate and as individual members, explore and develop fiscal stewardship through training and other means of educating Board members in the understanding of legal and other requirements pertaining to financial management of RICHARD MILBURN ACADEMY/TEXAS, INC. and RMA.

Such training and education shall consider, but shall not necessarily be limited to, the development of management controls and monitoring of business activities, addressing possible fraud and irregularities through special audits and investigations and referrals to oversight agencies and law enforcement, as well as the General Ethical Standards (page 93) in Module 3 of the *Texas Financial Accountability System Resource Guide* (Version 15.0).

PG-5.021: Authorization for the Obligation and Expenditure of Funds

Sec. 1. Purpose of Policy.
Through this policy, the Board of Directors (hereafter, the "Board") of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, "RMA") shall address the legal requirements, as applicable, promulgated at:

(a) Texas Constitution, Article III, Sec. 51, 52 and 53;
(b) Texas Business Organizations Code ("Tex. Bus. Org. Code") Sections 3.101, 22.201, 22.221 and 22.235;
(c) Texas Education Code ("Tex. Ed. Code") Sections 12.104(b)(1), 12.107, 12.111(a)(10), 12.115(a)(2), 12.121 and 44.052;
(d) Texas Administrative Code, Title 19 ("19 TAC"), §§ 100.1113;
(e) Code of Federal Regulations, Title 2 ("2 CFR"), § 200.303; and
(f) Financial Accountability System Resource Guide ("FASRG").

Sec. 2. Authority Over Fiscal Matters.
Sec. 2.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution.

Sec. 3. Initial Adoption.[12]
Sec. 3.1. Proposed Budget. the Delegate or designee shall prepare and recommend an annual budget for RMA ("Proposed Budget"), for consideration and adoption by the Board. In preparing the Proposed Budget, the Delegate or designee shall include any and all descriptions and amounts for estimated revenues from applicable sources of funding, both known and anticipated, and proposed expenses and outlays for personnel, professional and contracted services, real and personal property, debt service, materials, supplies, and other operating expenses reasonable and necessary for the conduct of RMA's operations and the furtherance of its mission.

Sec. 3.2. TEDS Compliance. The Delegate or designee shall prepare the Proposed Budget in a form to facilitate RMA's compliance with the Texas Education Data Standards ("TEDS") and submission of the required budgeted financial data to the Texas Student Data System Public Education Information Management System.

Sec. 3.3 Coordination and Collaboration. The Delegate or designee shall coordinate and collaborate with the Chief Financial Officer and other directors to develop the Proposed Budget.

Sec. 3.6. Budget Review. Prior to submitting the Proposed Budget to the Board, the Superintendent shall review and approve the Proposed Budget.

Sec. 3.8. Adopted Budget. After reviewing, deliberating, and as appropriate and necessary, revising the Proposed Budget, the Board shall adopt the Proposed Budget during a meeting conducted pursuant to the Texas Open Meetings Act and applicable Board policy ("Adopted Budget").

Sec. 4. Amendment.[13]
Sec. 4.1. The Delegate or designee may prepare proposed amendments to the Adopted Budget ("Proposed Amendment") to account for any material variances between realized and estimated revenues and actual and budgeted expenses and outlays.

Sec. 5. Authority to Obligate and Expend.[14]
Sec. 5.1. The Adopted Budget, as amended, constitutes the Board's authorization to RMA to obligate and expend funds.

Sec. 6. Notice to the Public.[15]
Recognizing that transparency in the administration of public funds is of paramount importance to the administration of RMA, the Board or designee shall publish a notice to the public of the meeting(s) at which it will deliberate and adopt the Proposed Budget. The notice shall conform to the form and content requirements for other notices to the public of the meetings of the Board.

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12 FASRG Module 2; Tex. Ed. Code § 44.002; 19 TAC § 100. 1113(a)(1)(B)
13 FASRG Module 2; Tex. Ed. Code §§ 44.006 and 44.052; 19 TAC § 100.1033(b)(14)(C)(ii)
14 FASRG Module 1 and 2; Tex. Ed. Code § 44.052
15 FASRG Module 2

Sec. 7. Deadline for Adoption.[16]
The Delegate shall prepare the Proposed Budget for the Board prior to the start of the fiscal year.

Sec. 8. Form and Content of Budget and Amendments.
Sec. 8.1. The Proposed Budget and all Proposed Amendments to the Adopted Budget presented by the Delegate to the Board shall conform to the requirements set forth in this section. At its discretion, the Board may disapprove any Proposed Budget or Proposed Amendment not conforming to the requirements set forth herein.

Sec. 8.2. The Delegate or designee shall prepare the Proposed Budget and Proposed Amendments utilizing the account code structure required by the Texas Education Agency ("TEA") and providing sufficient itemization to provide the Board meaningful financial information to make an informed decision.[17]

Sec. 9 Accuracy of Revenue Estimate.18

Recognizing the critical significance of an accurate revenue estimate upon which to make an informed decision as to the amounts to be appropriated for expenses in the Adopted Budget, the Delegate or designee shall prepare a revenue estimate that is found to be within ten percent (10%) of the School's realized revenues.

Sec. 10. Proposed Expenses to Comply with Allowable Uses of Funds.
The Delegate or designee shall prepare a Proposed Budget and Proposed Amendments that include proposed expenses that comply with applicable Board policy and state and federal law and are not prohibited as to purpose, for an activity, function, program, or service or for the purchase of a particular item or service.

Sec. 11. Fiscal Compliance.[19]
The Board adopts July 1st – June 30th as the fiscal year for RMA. The Proposed Budget and Proposed Amendment(s) should consider:

(a) The Financial Integrity Rating System of Texas ("FIRST") to yield a favorable financial accountability rating.
(b) The maintenance of effort requirements for Federal awards received under the Elementary and Secondary Education Act and the Individuals with Disabilities Education Act.
(c) State law mandating the minimum percentage that must be expended for the following student-based allotments:
    (1) Special education allotment,
    (2) Allotment for student with dyslexia or other related disorder,
    (3) Compensatory education allotment,
    (4) Bilingual education allotment,

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16 FASRG Module 2
17 FASRG Module 2
18 FASRG Module 2; Tex. Ed. Code §§ 44.006 and 44.052; 19 TAC § 100.1033(b)(14)(C)(ii)
19 TAC § 109.1001(f)(5); FIRST Indicator 10; TAC § 100.1047(b)(4)

(5) Career and technology education allotment, and
(6) College, career, or military readiness outcomes bonus.

(d) Other applicable Federal or state legal requirements.

Sec. 12. Publication of Adopted Budget.[20]
After the Board adopts the Proposed Budget, the Delegate or designee shall post the Adopted Budget on RMA's website.

Sec. 13. Report to the Board[21]
The Delegate shall provide to the Board a comparison of actual expenses to budgeted expenses, as amended, and discuss applicable variances.

PG-5.030: Allowable and prohibited uses of funds

Sec. 1. Purpose of Policy.
Through this policy, the Board of Directors (hereafter, the "Board") of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, "RMA") shall address the legal requirements, as applicable, promulgated at:

(a) Texas Constitution, Article III, Sec. 51, 52 and 53;
(b) Texas Business Organizations Code ("Tex. Bus. Org. Code") Sections 3.101, 22.201, 22.221 and 22.235;
(c) Texas Property Code ("Tex. Prop. Code"), Chapter 163;
(d) Texas Education Code ("Tex. Ed. Code") Sections 12.104(b)(1), 12.107, 12.111(a)(10), 12.115(a)(2), 12.121, 42.168, 44.052, 45.105(b)/(c) and Chapter 48, Subchapters C and D;
(e) Texas Administrative Code, Title 19 ("19 TAC"), Sections 89.1125, 100.1113, 100.1063, 100.1067;
(f) United States Code, Title 26, §501;
(g) Code of Federal Regulations ("CFR"), Title 2, Part 200 and Title 26, Part 1;
(h) *Standards for Internal Control in the Federal Government* promulgated by the Comptroller General of the United States;
(i) *Internal Control – Integrated Framework* issued by Committee of Sponsoring Organizations of the Treadway Commission;
(j) *Government Auditing Standards* (2018 Revision) promulgated by the U.S. Government Accountability Office; and
(k) *Texas Grant Management Standards* promulgated by the Texas Comptroller of Public Accounts; and
(l) Financial Accountability System Resource Guide ("FASRG").

Additionally, through this policy, the Board shall address best practices adopted by public schools.

[20] 19 TAC § 100.1032(2)K)
[21] FASRG Module 2

Sec. 2. Authority Over Fiscal Matters.
Sec. 2.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution.

Sec 2.2 The Delegate, as defined herein, shall report to the Board any business arrangement or transaction with an individual that is an officer, and any conflicted,[22] interested[23] or related[24] party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 6. Fiduciary Duty.[25]
As fiduciaries, the Board and directors have been entrusted with funds for the benefit of RMA's students. Accordingly, RMA funds, property and other resources shall be used for the benefit of RMA's students to provide secondary instruction and to implement the approved open-enrollment charter, [26] as amended.

Sec. 7. Prohibited Use of Public Funds.[27]
The Board and directors may not pledge or use public funds to secure loans or bonds for any other organization, including a non-charter operation or out-of-state operation conducted by Richard Milburn Academy/Texas, Inc. or a related party[28] or use public funds to support an operation or activity not related to the educational activities of RMA.

Sec. 8. Funds to Support Instructional Plan.
The Board and directors shall ensure that funds are used to support the implementation of RMA's instructional plan.

Sec. 10. General Requirement.
Sec. 10.1 Recognizing that it is impractical to list every conceivable allowable use of funds and that a general framework is beneficial in guiding decisions regarding the use of funds, RMA shall adhere to the general requirements set forth in this section prior to and when it obligates and expends funds.

Sec. 10.2 The Delegate and RMA's directors shall ensure that a proposed use of funds:

(a) Is reasonable in its nature and amount;
(b) Does not exceed that which a prudent person would incur under the circumstances prevailing at the time the decision was made to incur the cost(s);

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22 Tex. Ed. Code §12.1054; 19 TAC §§ 100.1145 through 100.1151
23 19 TAC §100.1067(f)
24 Tex. Ed. Code §12.1166
25 Tex. Ed. Code §§ 12.102(1), 12.107(a)(2) and 12.128(a)(2); 19 TAC §§ 100.1001(6), 100.1043(a), and 100.1063(b)/(c).
26 *See* 19 TAC §100.1001(15) for pertinent legal definition.
27 Tex. Ed. Code §§ 12.106 and 12.107(a)(5); Public funds means state funds as defined at 19 TAC §100.1001(8).
28 Tex. Ed. Code §12.1166

(c) Is ordinary and necessary to achieve the goals and implement the strategies and activities of the open-enrollment charter and instructional plan;
(d) Conforms to RMA's documented and established practices;
(e) Is generally or specifically allowed by applicable state or federal law, rule or other legal authority; and
(f) Is not prohibited by applicable state or federal law, rule or other legal requirement; and
(g) Complies with Board policy and the administrative procedures adopted by the Delegate.

Sec. 11. Generally Authorized Expenses.[29]

Sec. 11.1. In general, RMA is authorized to obligate and expend funds for the following purposes.

(a) To compensate the Superintendent, teachers, janitors and other employees for employment services rendered.
(b) To pay the interest for short-term loans acquired to compensate employees.
(c) To purchase equipment, furniture, materials, software, supplies and vehicles.
(d) To pay for insurance premiums.
(e) To purchase real property for use as an RMA site pursuant to Board authorization.
(f) To purchase, build, repair and rent RMA buildings pursuant to Board authorization.
(g) As authorized by the Board, to acquire RMA buildings and real property.
(h) For other purposes necessary in the conduct of RMA as determined by the Board including for the following purposes.
    (1) To develop and monitor a system of controls to ensure compliance with state and federal laws and rules.
    (2) To conduct Board meetings and provide Board members with training.
    (3) To procure legal, audit and other professional services necessary for the proper administration and oversight of RMA.
    (4) To record, compile, maintain and report data on student attendance, student enrollment, staff, finances, and other functions, programs, services and activities as required by the state and federal governments.
    (5) To develop, maintain and update a charter instructional plan including conducting a comprehensive needs assessment.
    (6) To conduct periodic assessments of students to identify potential learning deficiencies and to measure the students' progress towards desired academic goals.
    (7) For the upkeep and repair of facilities and instructional and instructionally related materials and equipment in the classroom and library, of food service equipment, and of vehicles.
    (8) To provide meals and snacks to students pursuant to the guidelines and requirements of the Texas Department of Agriculture.
    (9) To conduct field trips.
    (10) For athletic and band equipment, instruments or uniforms.
    (11) To conduct graduation and award ceremonies recognizing the achievements of students and staff.

[29] Tex. Ed. Code §48.105(c)

(12) To conduct background checks.
(13) For the research, development and maintenance of curriculum and innovative, new or modified instruction.
(14) For in-service training or staff development for instructional and instructionally related staff conducted by a regional education service center, an outside consultant(s) or RMA employee(s).
(15) To travel to conduct official RMA business.
(16) For utilities and the maintenance of telecommunication and computer networks and systems.
(17) To provide a safe environment and drug free school environment.
(18) For memberships in civic and professional organizations that further RMA's mission.
(19) For any other identified purpose, function, activity, program or service authorized by the Board through the adoption of RMA's annual operating budget and charter instructional plan including any amendments thereto.
(20) For other purposes determined by the Board to be in the best interest of RMA's students.

Sec. 11.2 For any proposed obligation or expenditure of public funds under this policy that may appear to be a violation of the Texas Constitution,[30] the Board and Delegate may seek legal counsel to ascertain if a board resolution is necessary to meet the following requirements:

(a) Identify the public purpose, amount, fund source, return benefit to the School and control(s) for the proposed expense:[31] and

(b)Certify that:

(1) The statutes and regulations applicable to the fund source to be used allow and do not otherwise prohibit the proposed expense;[32]

(2) The predominant purpose of the proposed expense is to accomplish a public purpose[33] and not to benefit private parties;[34]

(3) The proposed expense shall provide a clear, public benefit in return;[35] and

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30 See Texas Constitution Art. III, §§ 44, 50, 51, 52(a), and 53 and Art. XI, §3.

31 Attorney General of Texas Opinion No. GA-0076, GA-0743, KP-0099 and KP-0204.

32 *See* Tex. Att'y Gen. Op. No. GA-0743 (2009) at 2 ("The public purpose served by the expenditure must be an authorized public purpose of the political subdivision.").

33 *See* Tex. Att'y Gen. Op. No. GA-0743 (2009) at 2 ("The public purpose served by the expenditure must be an authorized public purpose of the political subdivision."). Thus, to meet this requirement, the Board must reasonably find that the activity to be supported by the proposed expense will yield the return benefit claimed and that said benefit serves the purposes of the open-enrollment charter.

34 *See* Tex. Att'y Gen. Op. No. GA-0076 (2003) at 6 ("An expenditure to accomplish a public purpose is constitutional even though it incidentally benefits a private interest.").

35 *See* Tex. Att'y Gen. Op. No. KP-0099 (2016) at 5 ("In utilizing this test to evaluate public expenditures, Texas courts have suggested that … (3) what constitutes an adequate return benefit depends on a variety of specific circumstances but is called into doubt if there is such a gross disparity in the relative values exchanged as to show unconscionability, bad faith, or fraud.").

(4) Sufficient control shall be retained over the expense to ensure that the public purpose is accomplished, and a return benefit is received.[36]

Sec. 12. Generally Prohibited Expenses.
In general, RMA is prohibited from obligating and expending funds for the following purposes.

(a) Alcoholic beverages;
(i) Any good or service for personal benefit or use;
(ii) Entertainment, including amusement, diversion, and social activities;[37]
(iii) Field trips that are not part of a teacher's lesson plan or that do not meet the instructional objectives of the charter instructional plan;
(iv) Fines and penalties levied against individuals; and
(v) Gifts, including donations.

Sec. 13. Authorized Uses of Funds for Special Programs.[38]
In addition to the general requirement and generally authorized expenses enumerated above, RMA may use and may allow the use of state funds pertaining to the educational programs established under Tex. Ed. Code Chapter 29 and other state law for the authorized purposes.

Sec. 14. Indirect Cost Limitation.
The Delegate or designee may use and may only allow the use of state funds provided for the educational programs for indirect costs up to the maximum allowed by state law.

Sec. 16. Documentation Required.[39]
The Delegate or designee may prepare or cause to have prepared records for all uses of funds. All recorded uses of funds shall adequately demonstrate compliance with this policy and applicable legal requirements.

Sec. 17. Monitoring and Oversight of Budgetary Authorization.[40]
The Delegate or designee may regularly monitor and oversee the use of funds through the review and approval of purchase requisitions, purchase orders, travel reimbursement forms, vendor invoices and receipts, and any and all other such record deemed appropriate and necessary to ascertain if a proposed or actual use of funds constitutes an allowable cost.

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[36] *See* Tex. Att'y Gen. Op. No. GA-0076 (2003) at 7 ("The school district must place sufficient controls on the expenditure to ensure that its public purpose is accomplished. Contractual terms may provide sufficient control of some expenditures. […] Controls such as application requirements and limits on travel expenditures may be established by the board's exercise of rule-making power.").

[37] FASRG, Update 17 (2020) Module 2, §2.2.2.1 (Social Activities).

[38] Tex. Ed. Code Chapters 29 and 48.

[39] Tex. Ed. Code §§ 12.1052 and 12.115(a)(2); 19 TAC §§ 100.1051(c)(1)(A)(vi), 100.1039(2)(P) and 100.1203(a)(2)

[40] Tex. Ed. Code §12.115(a)(2); 2 CFR §200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

Sec. 18. Use of Restricted Philanthropic Funds.
If a donor restricts a contribution or RMA implies or states a specific purpose for its fundraising effort(s), the Delegate or designee may only use or allow the use of the contribution(s) received for the restricted purpose.

PG-5.101: FISCAL COMPLIANCE MONITORING

Sec. 1. General Principles.
The Superintendent of RMA may develop and implement monitoring systems described in this Policy

Sec. 2. State Requirements.
The Superintendent or designee may develop and implement a system to monitor the compliance of RMA with the following state requirements:

Sec. 2.1 Financial Solvency.
The Superintendent or designee may monitor the financial solvency of RMA through the use of historical, budgeted and projected financial and other relevant data. The Superintendent shall consider the impact of the charter instructional plan for the current fiscal year and the long-term strategic plan for the subsequent three fiscal years. Additionally, the Superintendent may consider conservative estimates of student enrollment, student attendance and revenue projections based upon historical data.

Sec. 2.2 Financial Accountability Rating System of Texas (FIRST).
The Superintendent or designee may monitor the finances and operation of RMA to attain a favorable FIRST rating. The Superintendent may consider the adequacy of the system of internal controls to ensure that it enables RMA to achieve compliance with applicable legal requirements. To the degree appropriate and necessary, the Superintendent may consult with RMA's independent auditor or other qualified professional to identify potential issues that may result in an unfavorable FIRST rating.

Sec 2.3 Indirect Cost Limitation.
The Superintendent or designee shall monitor the budgeted and actual expenditures for the special allotments to ensure that the minimum required amount of state funds for each special program is expended. In developing the monitoring system for limiting the amount of indirect costs charged to each special program, the Superintendent shall consider the charter instructional plan and the total amount of common costs incurred to support RMA's instructional and instructionally-related program and the special programs required by the state.

Sec. 3. Federal Requirements.

Sec. 3.1. Maintenance of Effort (MOE).
The Superintendent or designee may monitor the finances and operation of RMA to ensure that the minimal fiscal effort required by the Federal government for general and special education is attained. The Superintendent may consider the impact of the charter instructional plan for the current fiscal year.

Sec. 3.2. General Education.
In assessing RMA's compliance with the Federal MOE requirement for programs funded pursuant to the Elementary and Secondary Education Act/Every Student Succeeds Act, the Superintendent or designee may consider the impact of exceptional or uncontrollable circumstances or a precipitous decline in financial resources.

Sec. 3.3. Special Education.
In assessing RMA's compliance with the Federal MOE requirement for programs funded pursuant to the Individuals with Disabilities Education Act, the Superintendent or designee may consider the impact of changes in staff and student enrollment, the termination of an exceptionally costly program provided to a particular child, the termination of costly expenditures for long-term purchases, and RMA's participation in the high cost grant program.

Sec 3.4 Supplement; Not Supplant.
The Superintendent or designee shall monitor the finances and operation of each individual RMA campus to ensure that Federal funds are expended to supplement and not supplant non-Federal sources of funding. In developing the monitoring system for the proper use of Federal funds the Superintendent shall consider the charter instructional plan, the approved budget and subsequent amendments, the identified needs of the students enrolled in RMA, and the actual method of funding for a particular cost for the prior and current academic years.

Sec 3.5 Excess Cost.
The Superintendent or designee shall monitor the finances and operation of each individual RMA campus to ensure that Federal funds are used only to pay the excess costs for students enrolled in the special education program.

Sec. 4. Projection of Potential Noncompliance.
The Superintendent or designee may develop or cause to have developed monitoring systems that are based upon the regulatory models implemented by the Texas Education Agency.

Sec. 5. Requirement to be Exceeded.
To the degree feasible, the Superintendent or designee may develop monitoring systems that include additional data and indicators beyond those used by the Texas Education Agency in its regulatory models.

Sec. 6. Data to be Used.
To the degree feasible, the Superintendent or designee may develop or cause to have developed monitoring systems that include historical, budgeted, actual and projected data to be periodically updated to include actual, year-to-date data and revised projections.

Sec. 7. Monitoring Timeline.
To the degree feasible, the Superintendent or designee may develop or cause to have developed monitoring systems that produce results at the beginning, middle and end of the fiscal year.

Sec. 8. Corrective Action Plan.
Upon identifying a potential instance of noncompliance, the Superintendent or designee may prepare a plan that addresses the condition(s) that resulted or may result in RMA's failure to comply with the fiscal requirements addressed by this policy.

Sec. 9. Administrative Procedures.
The Superintendent may prepare administrative procedures as necessary to implement this policy.

PG-5.102: FINANCIAL MANAGEMENT SYSTEM

Sec. 1. Financial Management System Defined.
RMA Financial Management System is the system of controls and records that enable RMA to use and safeguard funds and property for lawfully authorized purposes in furtherance of its mission and to achieve its vision, consisting of the following components.

Budgetary Control. The Financial Management System facilitates oversight of RMA's finances by the Board of Directors ("Board") through:

1. Approval of obligations and expenses by the Superintendent, Chief Financial Officer and other authorized or designated RMA administrators.
2. Board receipt and review, including accurate, complete and timely updates by Chief Financial Officer of financial reports, as amended to include a comparison of the original and amended budget to RMA's actual obligations and expenses.

Financial Reporting. The Financial Management System shall provide accurate, complete and timely information regarding RMA's financial condition and other pertinent matters concerning RMA's operations. The Superintendent may utilize summary or detailed reports and records to oversee RMA's finances, property and staff resources.

Records. The Financial Management System creates and maintains financial accounting and other summary and detailed records that account for RMA's assets, liabilities, appropriations, obligations, revenues and expenses. The records maintained identify the source and application of funds and the use, as well as the location of property. The records maintained include sufficiently detailed source documents that function as the origin of the summary and detailed financial and other information disclosed to the public, oversight government agencies, the Board, the Superintendent and other interested parties.

Sec. 2. Chart of Accounts.
In accordance with Module 3 of the *Financial Accountability System Resource Guide* ("FASRG"), RMA shall maintain financial accounting records that utilize the minimum account code structure mandated by the State Board of Education and the Texas Education Agency ("TEA").

Sec. 2.1. Required Account Codes.
RMA shall utilize the account codes mandated in FASRG Module 11 to account for public funds and public property. As appropriate and necessary, RMA may utilize the local option codes and locally defined classifications provided in FASRG Module 11.

Sec. 2.2. Local Account Codes.
Within the mandated account code structure, RMA may develop and use locally defined account codes that facilitate the administration and oversight of RMA functions and activities and the use of local funds and property.

Sec. 3. Obligations.
The Superintendent or designee shall authorize or cause to be authorized any obligation of public funds. Additionally, the Superintendent or designee shall prepare a financial accounting record(s) that accounts for any obligation of local or public funds through the execution of a contract or the issuance of a purchase order.

Sec. 4. Disbursements for Goods and Services.
The Superintendent or designee shall authorize any disbursement of public funds through check, electronic funds transfer, charge or credit account, promissory note, or other means or method of disbursing funds to a third party. Prior to authorizing the disbursement of funds, the Superintendent shall prepare or cause to be prepared a sufficiently detailed, original internal accounting record identifying the business- related purpose of the disbursement. Additionally, the Superintendent or designee shall obtain a sufficiently detailed, third-party record identifying the goods received or services rendered.

Sec. 5. Disbursements for Employment Services.
As authorized by the Board through policy or resolution, the Superintendent or designee shall approve the employment of qualified individuals for RMA positions. Moreover, the Superintendent or designee will review payroll, personnel and time or activity accounting records to support the use of local and public funds for employment services.

Sec. 6. Competitive Procurement.
Pursuant to applicable Federal and state law and rules, the Superintendent or designee ensures that goods and services are procured competitively to ensure that limited financial resources are maximized without unreasonably sacrificing the quality of the goods and services received.

Sec. 8. Administrative Procedures.
The Superintendent may prepare administrative procedures as necessary to implement this policy.

PG-5.110: Accounts Payable

Sec. 1. Purpose of Policy.
Through this policy, the Board of Directors (hereafter, the "Board") of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, "RMA") shall address the legal requirements, as applicable, promulgated at:

(a) Texas Education Code ("Tex. Ed. Code"), notably Sections 12.107, 12.115(a)(2), 12.121 and 12.128;
(b) Texas Business Organizations Code ("Tex. Bus. Org. Code"), notably Sections 3.101, 22.201, 22.221 and 22.235;
(c) Texas Administrative Code, Title 19 ("19 TAC"), Chapter 100, notably §§:100.10647(b) and 100.1113;
(d) Code of Federal Regulations, Title 2, Part 200 ("2 CFR 200");
(e) Financial Accountability System Resource Guide;
(f) *Standards for Internal Control in the Federal Government* promulgated by the Comptroller General of the United States;
(g) *Internal Control - Integrated Framework* issued by Committee of Sponsoring Organizations of the Treadway Commission; and
(h) *Government Auditing Standards* (2018 Revision) promulgated by the U.S. Government Accountability Office.

Sec. 2. Applicability of Policy.
This policy pertains to the payment of invoiced amounts or accounts payable, pertaining to the purchase of goods and services, through the use of local or state funds

Sec. 3. Authority Over Fiscal Matters.
Sec. 3.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution.

Sec. 3.2. The Delegate, as defined herein, shall report to the Board any business arrangement or transaction with an individual that is an officer, and any conflicted,[41] interested[42] or related[43] party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec 4. Good Standing.

To ensure that the School remains in good standing with its vendors and that its credit or financial ratings are not adversely affected, the Delegate or designee shall issue payments to vendors for invoiced amounts pursuant to this policy and to the agreed-upon terms and conditions noted on the purchase order, executed contract, or invoice.

Sec 5. Authorized Payments for Amounts Due.[44]

Sec. 5.1. The Delegate or designee shall only disburse School funds to a vendor if the following conditions have been met.

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41 Tex. Ed. Code §12.1054; 19 TAC §§ 100.1145 through 100.1151
42 19 TAC §100.1067(f)
43 Tex. Ed. Code §12.1166
44 Tex. Ed. Code §12.115(a)(2)

(i) As applicable, the vendor has filed:

(1) Form W-9,
(2) Standard Terms and Conditions,
(3) Felony Conviction Disclosure Statement,
(4) Contractor Certification,
(5) Conflict of Interest Questionnaire (Form CIQ) and any related Conflict of Interest Statements (Form CIS) from officers, directors, employees or agents of the School,
(6) Child Support Certification (Form 1903), and
(7) Other affidavits, certifications and forms as required by applicable law;

(j) The vendor did not levy a sales or other tax from which the School is exempt and did not charge a finance fee or other amount to which the School did not previously agree; and

(k) The vendor has satisfactorily addressed any concerns or issues identified by School personnel regarding the goods and/or services received and/or the invoiced amount(s).

Sec. 5.2. If the requirements in this policy are met, the Delegate or designee may issue payment to the vendor pursuant to the terms set forth in the invoice or as previously agreed-upon in the purchase order or executed contract.

Sec 6. Defective Invoice.

The Delegate or designee shall return any invoice that fails to conform to the requirements of Sec. 5.1 of this policy. In doing so, the Delegate or designee shall issue written notice to the vendor along with the defective invoice describing the defect(s) and requesting the issuance of a new invoice and requiring that a revised due date for the invoiced amount(s) be provided.

Sec 7. Invoice Review and Approval.[45]

Sec. 7.1. The Delegate or designee may only issue payment to a vendor for an invoice meeting the requirements of this policy after it has been reviewed and approved by the Delegate or designee. If the requirements of this policy have been satisfactorily addressed, the Delegate or designee may issue payment to the vendor.

Sec. 7.2. The Delegate or designee shall have any invoices for construction services relating to a public works contract reviewed by the School's third-party architect, engineer, construction management consultant or other qualified advisor. The advisor shall provide a recommendation to the Delegate.

[45] Tex. Ed. Code §12.115(a)(2)

Sec 8. Prepaid Items.[46]

The Delegate or designee may prepay an amount to a vendor but must account for such prepaid items in accordance with generally accepted accounting principles, state and federal fiscal requirements, and Board policy.

Sec 9. Communication with Vendors.

School personnel shall document all communications with vendors regarding their invoice(s) for any goods and/or services, including concerns relating to price, quality, quantity, type, and other agreed-upon terms or conditions.

Sec. 10. Disbursement from Proper Fund Source.[47]

The Delegate or designee shall disburse funds from a fund source to the vendor for an invoiced amount(s) if the goods and/or services received were:

(l) For an activity authorized by applicable law and rule;
(m) For an allowable use of funds, as established under applicable law and rule; and
(n) In compliance with other applicable law, rule and policy.

Sec. 11. Disbursement to Vendors.
The Delegate or designee shall only issue payment to a vendor's mailing address or directly into the vendor's bank account.

Sec. 12. Records.[48]
The Delegate or designee should create, obtain, and maintain adequate and sufficient records to support the disbursement of RMA funds to a vendor for invoice amounts, as required by applicable law, rule and policy.

PG-5.120: Grant Accounting

The Board has adopted the Federal and State Grants Management Procedures that provide details regarding that which was formerly referred to as Federal Fiscal Compliance. Please refer to these procedures, located at https://www.rmaschools.org/about/governing-board/ for a current copy of these adopted procedures.

[46] Tex. Ed. Code §§ 12.107(a) and 12.115(a)(2); 19 TAC §§ 100.1063(a) and 100.1067(b)
[47] *Ibid*.
[48] Tex. Ed. Code §§ 12.1052 and 12.115(a)(2); 19 TAC §§ 100.1022(c)(1)(vi), 100.1032(2)(P) and 100.1203(a)(2)

PG-5.130 Travel

Sec. 1. Purpose of Policy.
Through this policy, the Board of Directors (hereafter, the "Board") of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, "RMA") shall address the legal requirements, as applicable, promulgated at:

(a) Texas Education Code ("Tex. Ed. Code") §§ 12.107, 12.115(a)(2) and 45.105(c);
(b) Financial Accountability System Resource Guide; and
(c) Internal Revenue Code and Treasury Regulations.

Sec. 2. Authority Over Fiscal Matters.
Sec. 2.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution.

Sec. 3. Definitions.
For purposes of this policy, the following terms have the meanings provided in this section.

Sec. 3.1. *Commercial lodging establishment* means a motel, hotel, inn, apartment, house or similar establishment that provides lodging to the public for pay. [49]

Sec. 3.2. *Duty point* means the destination, other than a place of employment, to which an RMA employee travels to conduct official RMA business.[50]

Sec. 3.4. *Place of employment* means the office or other physical location at which an RMA employee most frequently conducts official RMA business.[51] Additionally, the employee's place of employment includes the entire city or general area in which the employee's office or other physical location is located.[52] If an RMA employee has more than one place of work, the following factors are determinative of which one is the employee's main place of work:

(a) The total time the employee ordinarily spends at each place;
(b) The level of the employee's business activity in each place; and
(c) Whether the employee's income from each place is significant or insignificant.[53]

Sec 3.5 Sponsor means a School employee who is primarily responsible for student travel and includes teachers and coaches.

Sec. 6. Abuse and Waste Prohibited.
RMA employees must use discretion when making travel arrangements to conserve RMA's limited financial and other resources.

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49 Textravel (General ; Definitions) (December 28, 2021)
50 *Ibid*.
51 *Ibid*.
52 IRS Publication 463, Chapter 1, Travel (Tax Home).
53 IRS Publication 463, Chapter 1, Travel (Tax Home; Main place of business or work).

Sec. 8. General.

Sec. 8.1. RMA shall reimburse employees for reasonable and necessary travel expenses. Moreover, RMA shall only reimburse employees for travel expenses incurred only if the purpose of the travel clearly involves official RMA business as authorized under applicable legal authority.[54]

Sec. 8.2. RMA shall minimize the amount of travel expenses reimbursed by ensuring that each travel arrangement is the most cost-effective considering all relevant circumstances.[55]

Sec. 8.3. Generally, employees should make their travel arrangements once the business purpose for their travel has been confirmed and is not subject to change and in a manner that provides with flexibility and avoids costs that may arise as a result of a sudden and unanticipated circumstance or event.

Sec. 8.4. Sec. 8.3 of this policy notwithstanding, RMA shall reimburse employees for costs incurred for which flexibility could not be arranged and resulting from a sudden and unanticipated circumstance or event.

Sec. 8.5. RMA employees should select the most cost effective, and not the most convenient, method of transportation available.[56]

Sec. 8.7. RMA employees are responsible for adequately and clearly documenting the business purpose of their travel to support the expenses incurred.

Sec. 8.9. RMA shall not reimburse an employee for any expenses incurred that do not pertain to official RMA business, do not conform to Board policy, or violate applicable law.

Sec. 8.10. RMA shall not reimburse an employee for travel expenses that are not accurately and completely itemized and documented as required by this policy and applicable legal requirements.

Sec. 8.11. RMA shall not reimburse an employee for the travel expenses of spouses and other persons who have no responsibilities or duties to perform for RMA.

Sec. 8.12. RMA shall not reimburse any person[57] who is not an employee and who incurs travel expenses except as agreed-upon in a written, fully executed agreement between the person and RMA.

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54 Textravel (General; Official state business) (December 28, 2021)

55 Textravel (General; Conservation of state funds) (December 28, 2021)

56 Textravel (Transportation) (December 28, 2021).

57 For purposes of this policy, *person* means a natural person or a corporation, partnership, limited liability company, business trust, trust, association, or other organization, estate, government or governmental subdivision or agency, or other legal entity, or a series of a domestic limited liability company or foreign entity.

Sec. 10. Travel by Commercial Air Transportation.[58]
Sec. 10.1. RMA employees shall travel by commercial air transportation at the lowest available airfare between the employee's place of employment and the employee's duty point.

Sec. 10.2. The Delegate or designee shall reimburse an employee for the actual cost of commercial air transportation at the lowest available airfare between the employee's place of employment and the employee's duty point.

Sec. 11. Travel by Ground Transportation.
RMA shall reimburse employees for the following modes of ground transportation.

Sec. 11.2. Personal Vehicle.[59]

Sec. 11.2.1. RMA employees may use their personal vehicles to travel on official business.

Sec. 11.2.2. RMA may reimburse an employee for the use of their personal vehicle in an amount not to exceed the maximum mileage reimbursement rate approved by the Internal Revenue Service applied to the total number of miles traveled for official business.

Sec. 11.2.4. RMA shall reimburse an employee for the use of their personal vehicle to travel from their residence or place of employment to the airport if they commence their travel outside of their scheduled work hours.

Sec. 11.2.5. Travel between an employee's private residence and place of employment (commuting) is not a reimbursable travel expense.

Sec. 11.2.6. In accordance with applicable state law, RMA employees shall maintain adequate automotive insurance for any personal vehicles used for business travel.

Sec. 11.3. Rental Vehicles.

Sec. 11.3.1. RMA employees may rent vehicles to conduct official RMA business.

Sec. 11.3.3.RMA employees shall present Form 14-305, "Motor Vehicle Rental Tax Exemption Certificate", in order to avoid being charged the Texas motor vehicle gross rental receipts tax.

Sec. 11.3.4. RMA employees must report any vandalism, thefts or accidents of a rental car to the rental car agency and local law enforcement and must obtain copy of the police report filed.

Sec. 11.3.5. Other. RMA may reimburse an employee for the actual cost of transportation by bus, limousine, network transportation driver (e.g., Uber), taxi, or other similar mode of transportation if incurred to conduct official business.[60]

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[58] Textravel (Transportation; Commercial air transportation) (December 28, 2021)
[59] Textravel (Transportation; Mileage in personal vehicle) (December 28, 2021).
[60] Textravel (Transportation; Mass transit, taxi or limousine) (December 28, 2021)

Sec. 12. Lodging.
Sec. 12.1.2. RMA may reimburse an employee for actual lodging expenses incurred for no more than the night before official business begins and the night after official business ends.[61]

Sec. 12.1.3. Richard Milburn Academy employees attending conferences and training may stay at the conference hotel or conference partner hotels.

Sec. 12.1.4. Employees are responsible for canceling hotel and other arrangements if a trip is cancelled and for presenting a Form 12-302, "Texas Hotel Occupancy Tax Exemption Certificate" to the commercial lodging establishment during the check in process.

Sec. 13. Meals.[62]
Sec. 13.1.1. RMA shall reimburse an employee for actual meal expenses incurred, not to exceed the maximum meal reimbursement rate for the duty point authorized by the U.S. General Services Administration, on a day that the employee conducts official RMA business outside of the employee's place of employment.

Sec. 13.1.2. RMA's maximum meal reimbursement rate is not a per diem. Accordingly, an employee may only claim the maximum meal reimbursement rate if the employee's actual meal expenses equal or exceed the maximum meal reimbursement rate.

Sec. 13.1.3. An employee whose duties require the employee to travel outside the employee's place of employment without an overnight stay away from the employee's place of employment may be reimbursed for the actual cost of the employee's meals not to exceed the maximum allowed authorized by U.S. General Services Administration.

Sec. 15. Advance.
Sec 15.1 Upon receipt of a written request, the Delegate may authorize that an employee receive the estimated travel expenses in advance.

Sec 15.2 The employee shall submit a travel expense report itemizing the use of the advanced payment.

Sec 15.3 The School may reimburse the employee any additional travel expenses incurred provided that the amounts paid do not exceed the maximum allowable travel rates.

Sec 15.4 The employee shall refund to the School any advanced payment received in excess of the total travel expenses incurred, paid and documented by the employee.

Sec 15.5 The School shall report to the IRS any amount advanced to the employee as taxable income if the employee fails to comply with this policy.

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61 Textravel (Meals and Lodging; Lodging) (December 28, 2021)
62 Textravel (Meals) (December 28, 2021)

Sec. 16. Request for Reimbursement of Travel Expenses.
Sec. 16.1. Required Filing. Upon their return to their place of employment, employees shall file a request for reimbursement of travel expenses form and the required supporting documentation within (10) business days.

Sec. 16.2. Required Content. Employees shall prepare a Request for Reimbursement of Travel Expenses form that includes the following information:

(a) The employee's full, legal name and place of employment;
(b) The travel destination and dates of travel;
(c) The actual amounts expended by the employee for lodging, meals, mileage for personal vehicle driven, parking, transportation, and other travel-related expenses;
(d) A statement certifying that the employee's request is accurate, complete and true;
(e) A statement certifying that the supporting documents attached to the form are accurate, complete, true and unaltered records;
(f) The employee's signature and date of signature; and
(g) The employee's supervisor signature and date of signature.

Sec. 17. Required Supporting Documentation.[63]
Sec. 17.1. Unaltered Records. For each expense, an employee shall attach dated legible, and unaltered records issued by the vendor that provides sufficient detail to substantiate the expenses reported on the Travel Expense Form and to demonstrate that the cost incurred is allowable pursuant to this policy and applicable law.

Sec. 17.3. Electronic Versions. An employee may submit an electronic version of a required record provided that all required information is disclosed thereon as provided in this policy.

Sec. 17.4. Failure to Attach. The Delegate or designee shall not reimburse an employee for an expense if the employee does not attach a record conforming to the requirements.

Sec. 17.5. Commercial Air Transportation: An employee shall provide a passenger receipt issued by a commercial airline company or an itinerary that includes:

(a) the name of the employee and airline,
(b) the travel dates,
(c) the amount of the airfare, and
(d) the origin and destination of each flight.[64]

Sec. 17.7 Personal Vehicle. An employee shall provide the total number of miles traveled as determined by a sufficiently detailed point-to-point itemization, which may be documented by a readily available online mapping service. If an online mapping service is used, the employee shall provide a copy of the online map, including route directions and mileage.

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[63] Tex. Ed. Code § 12.115(a)(2); IRS Publication 463 (Chapter 5: Recordkeeping); Textravel (Documentation Requirements) (December 28, 2021)
[64] Textravel (Documentation Requirements – Transportation; Commercial air transportation) (December 28, 2021)

Sec. 17.9 Other Ground Transportation. For transportation by bus, limousine, network transportation driver (e.g., Uber), taxi, or other similar mode of transportation, an employee shall provide an itemized receipt for that includes the following information:

(a) the name of the company,
(b) the date that the service was received, and
(c) the fare charged.

Sec. 17.10. Lodging. An employee shall provide an itemized receipt or statement issued by the commercial lodging establishment that includes the following information:

(a) The name and address of the commercial lodging establishment;
(b) The name of the employee;
(c) The single room rate;
(d) The date(s) that the employee stayed overnight at the establishment;
(e) A daily itemization of the lodging charges; and
(f) Proof of payment.

Sec. 17.12. Training Events. If the travel expenses relate to a training event, an employee should provide a certificate of attendance, certificate of completion, or other equivalent document demonstrating that the employee attended the conference, seminar, workshop, or other training event.

Sec. 18. Review by Delegate.
Upon receiving an employee's Travel Expenses form and required supporting documentation, the Delegate or designee shall review and approve or disapprove an employee's request for reimbursement. If disapproved, the Delegate or designee shall inform the employee of the amount(s) that were disallowed and the basis for the disallowance.

Sec. 21. Eligible Expenses.[65]
Sec. 21.1 An employee may be reimbursed for the following eligible expenses:

(a) Common carrier fares for coach or regular passenger seating, including the cost of transportation via airplane, bus, limousine, network transportation driver (e.g., Uber), taxi, and train;
(b) Charges for excessive baggage as long as the travel is related to state business and the charges are reasonable and the number of bags was necessary;
(c) Commercial lodging rates;
(d) Hotel occupancy taxes;
(e) Rental car rate, applicable taxes, and mandatory charges;
(f) Collision damage waiver or loss damage waiver if not included in RMA's insurance policies;
(g) Maximum mileage reimbursement rate applied to the actual mileage driven to conduct official RMA business; and
(h) Actual cost of meals not to exceed the maximum allowable rate.

[65] Textravel (December 28, 2021)

Sec. 22. Cancellation Charges.[66]
An employee may be reimbursed for a cancellation charge, related to a travel expense, if the charge was incurred:

(a) For a reason related to RMA business, or
(b) For a reason related to RMA business that could not be conducted because of a natural disaster, or
(c) Because the employee was unable to use transportation that was paid in advance to obtain a cost savings because that employee was ill or had a personal emergency.

Sec. 23. Ineligible Expenses.
Sec. 23.1. An employee shall not be reimbursed for a cost if it is not authorized or is prohibited by applicable law, rule, or other legal requirement and does not conform to the requirements set forth in this policy.

Sec. 23.2. An employee shall not be reimbursed for the following ineligible expenses:

(a) Alcoholic beverages;
(b) Business or first-class seating;
(c) Fines, including, but not limited to, fines assessed for parking or moving violations;
(d) Mileage for commuting between an employee's private residence and place of employment;
(e) Laundry, personal phone calls, internet service for personal use, in-room movies, etc.;
(f) Toiletries;
(g) Travel insurance;
(h) Travel for spouses, family members, the employee's companion(s), the employee's children, non-RMA employees, or other acquaintances, associates or guests; and
(i) Valet services (Unless documentation is provided that the hotel does not offer self-parking.)

PG-5.180: Activity Funds

Sec. 1. Purpose of Policy.
Through this policy, the Board of Directors (hereafter, the "Board") of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, "RMA") shall address the legal requirements, as applicable, promulgated at:

(a) Texas Education Code ("Tex. Ed. Code") Sections 12.115(a)(2);
Texas Business Organizations Code ("Tex. Bus. Org. Code");
Texas Administrative Code, Title 19 ("19 TAC"), §:100.1067(b);
Financial Accountability System Resource Guide ("FASRG"); and
Government Auditing Standards.

Sec. 2. Applicability of Policy.
This policy pertains to the receipt, safeguarding, and use of activity funds, as defined herein.

[66] Textravel (Miscellaneous Provisions; Cancellation charges) (December 28, 2021)

Sec. 3. Authority over Fiscal Matters.
Sec. 8. Sec. 3.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution.

Sec. 4. Definitions.
Sec. 4.1. Cocurricular Activities.[67]
"Cocurricular Activities" are RMA sponsored activities that directly add value to classroom instruction and curriculum.
Sec. 4.2. Extracurricular Activities.[68]
"Extracurricular Activities" are RMA sponsored activities outside the RMA day that are generally ones designed to motivate students and provide them with enjoyment and skill improvement in either a competitive or noncompetitive setting.

Sec. 4.4. Campus or RMA Academy Activity Funds.[69]
"Campus Activity Funds" are funds that belong to and are under the control of RMA and campus and that are used to support campus and or RMA programs and activities.

Sec. 5. Activity Fund Accounting.
Sec. 5.1. The Delegate or designee should account for the receipt and use of fundraising proceeds at a campus, as applicable.

Sec. 5.2. The Delegate or designee should maintain control of and disburse activity funds through RMA's central accounting office.[70]

Sec. 5.3. To enable campuses to acquire goods and services with their available campus funds, the Delegate or designee should facilitate a process whereby campuses may acquire goods and services as and when needed.[71]

Sec. 5.5. RMA shall not account for funds collected, disbursed, and controlled by parents, patrons, or alumni organizations because these funds are not activity funds.[72]

Sec. 5.6. Organizations controlled by parents, patrons, or alumni are separate legal entities from RMA and shall maintain separate and distinct accounting, auditing, budgeting, reporting, and recordkeeping systems from those recording the business activities of RMA.[73]

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67 FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H.
68 FASRG, Module 3, Special Supplement—Nonprofit Richard Milburn Academy Chart of Accounts, Update 17 (2020),
page 53.
69 FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.1.1).
70 FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.2.4).
71 *Ibid*.
72 FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.1).
73 19 TAC §100.1047(e)

Sec. 6. Responsibility for Activity Funds.[74]
Sec. 6.1. Delegate.
Sec. 6.1.1. The Delegate or designee should be responsible for the overall administration and accounting of all activity funds.

Sec. 6.2. Designees.
Designated RMA campus staff are responsible for:

(a) Proper collection, disbursement, and control of activity funds;
(b) Safekeeping of the activity funds;
(c) Accounting, which includes, but is not limited to, creating and maintain cash receipt records;
(d) Record keeping, which requires RMA to keep activity fund records for the same length of time as other accounting records;
(e) Conducting annual audits of activity funds by using an internal or external auditor; and
(f) Ensuring activity fund purchases comply with RMA's purchasing procedures and applicable legal requirements.

Sec. 8. Activity Fund Receipts.
The Delegate or designee should ensure that RMA retains adequate custody and control over activity funds and should ensure that a receipt is issued to any student or parent submitting fundraising or other proceeds. The Delegate or designee should ensure that all activity fund proceeds are forwarded to central office for deposit to the bank account and that the cash collected is not used to make purchases or payments of any kind.

Sec. 10. Fundraising.
Sec. 10.1. When fundraising activities are in the name of RMA, all funds raised become RMA funds.[75]

Sec. 10.2. Prior to undertaking any fundraising activities, the campus principal must approve all fundraising and sales activities and said approval must occur within thirty (30) days after a request is submitted. Once the purpose has been declared, funds cannot be repurposed at a later date.

Sec. 10.4. Staff must keep control of the merchandise and fundraising proceeds and maintain records.

Sec. 10.5. Raffles and gambling are prohibited.

Sec. 11. Contributions.
RMA may receive contributions from donors in the form of cash or check. RMA shall issue a tax-exempt letter to a donor upon request.

[74] FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.2.3).
[75] FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.1.3).

Sec. 12. Activity Fund Roll Forward.
At the end of each fiscal year, any account balance remaining in a campus activity fund shall not roll forward to the following fiscal year.

PG-5.190: Financial Reporting

Sec. 1. Purpose of Policy.
Through this policy, the Board of Directors (hereafter, the "Board") of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, "RMA") shall address the legal requirements, as applicable, promulgated at:

(a) Texas Education Code ("Tex. Ed. Code") Sections 12.115(a)(2) and 12.1162(a)(2);
Texas Business Organizations Code ("Tex. Bus. Org. Code");
Texas Administrative Code, Title 19 ("19 TAC");
Code of Federal Regulations, Title 2 ("2 CFR"), Part 200;
Financial Accountability System Resource Guide ("FASRG");
Standards for Internal Control in the Federal Government; and
Government Auditing Standards.

Sec. 2. Authority Over Fiscal Matters.
Sec. 2.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution.

Sec. 3. Development of Monthly Financial Statements and Budget Amendments.
Sec 3.1 The Delegate or designee should prepare and provide unaudited financial statements to the Board at each meeting. The Board may grant extensions as appropriate and necessary.

Sec 3.2 As appropriate and necessary and consistent with Board policy governing the annual operating budget, the Delegate or designee should prepare amendments to the budget adopted by the Board.

Sec. 4. Presenting Financial Statements and Budget Amendments to Board.
During each meeting, the Board shall review unaudited financial statements. The Delegate or designee shall address any inquiries from the Board regarding the operating budget and financial disclosures during these meetings.

Sec. 5. Financial Reporting Data Submission.
RMA should submit, in the form and manner specified by the Texas Education Agency (TEA) or other grantor or regulatory entity and by the date required under applicable law or rule:

(a) A financial and compliance report, management letter (if issued by the independent auditor) and any required supplementary data submission;
(b) Budgeted financial data and actual, audited financial data to the Public Education Information Management System (PEIMS); and
(c) Other forms and reports required by state or federal law or rule.

Sec. 6. IRS Filings.
In accordance with the Internal Revenue Code and Treasury Regulations, RMA shall file a Form 990 annually on or before the date due. Additionally, RMA shall file Form 941s quarterly on or before the dates due.

Sec. 7. Annual Audit; Annual Financial and Compliance Report.
Sec. 7.1 Annual and Interim Audits.

Sec. 7.1.1. In accordance with the Professional Services Procurement Act, RMA shall procure the services of a certified public accountant that meets the requirements established in rule by the TEA to conduct an annual, independent audit of its financial statements, the financial and programmatic operations of RMA, and the accuracy of the fiscal information submitted through the PEIMS and to provide an opinion on the financial statements and issue a report on internal control over financial reporting and on compliance and a report on compliance for major federal programs and on internal control over compliance.[76]

Sec. 7.1.2. The Delegate or designee shall ensure that the independent auditor conducts an end of year audit for each fiscal year.

Sec. 7.2. Independent Auditor's Qualifications.

Sec. 7.2.1. The independent auditor should:

(a) Be associated with a CPA firm that has a current valid license issued by the Texas State Board of Public Accountancy;
(b) Be a CPA with a current valid license issued by the Texas State Board of Public Accountancy; and
(c) Adhere to the generally accepted auditing standards (GAAS), adopted by the American Institute of CPAs (AICPA), as amended, and the generally accepted government auditing standards (GAGAS), adopted by the U.S. Government Accountability Office, as amended.[77]

Sec. 7.2.2. The CPA firm should:

(a) Be a member of the AICPA Governmental Audit Quality Center (GAQC);
(b) Adhere to GAQC's membership requirements; and
(c) Collectively have the knowledge, skills, and experience to be competent for the audit being conducted, including thorough knowledge of GAGAS.

Sec. 7.3. Report Requirements.

Sec. 7.3.1. Report Content.

The Delegate or designee should ensure that the annual financial and compliance report includes the content, reports, schedules and note disclosures required under generally accepted accounting

[76] 19 TAC §100.1047(c); 19 TAC §109.23(d)
[77] 19 TAC §109.23(d)(1)

principles (GAAP), as promulgated by the Financial Accounting Standards Board, and pursuant to the financial reporting requirements adopted by the TEA in the FASRG. The Delegate or designee shall ensure that the annual financial and compliance report includes financial and other information for the corporation as a whole and for its open-enrollment charter school.[78]

Sec. 7.3.3. Board Approval.

The Board shall review and approve, or disapprove, the content of the annual financial and compliance report before it is submitted to the TEA. If the Board disapproves the content of the report, the Board shall state its disapproval, including the reason(s) for disapproving the report's content, in writing to the TEA.

PG-5.210: CASH MANAGEMENT

Sec. 1. Board Oversight of Cash.

The Board of Directors ("Board") shall govern and manage the cash received and disbursed from all sources of funding in a manner consistent with State and Federal law and to achieve favorable cash flows to further the interests of RICHARD MILBURN ACADEMY/TEXAS, INC. and RMA. No cash in the amount over $30, per transaction, per student, will be collected by any RMA staff member. Any amount over $30 will only be accepted in the form of cash or money order or recorded as separate transactions. All cash transactions shall be recorded in writing, such as by handwritten receipt, which shall be signed and dated by the individual who receives the cash. Staff members who receive or collect money from parents or students shall document from whom the money was received, the date, and in what amount. A copy of the receipt shall be kept with the cash received. Such money shall be submitted to the Principal on the same school day as it is received for deposit. The Principal will exchange this cash for a money order and mail it to the Business Office on a weekly basis, via first class mail plus a delivery confirmation service. The Superintendent or designee shall be responsible for ensuring that all monies received are deposited in RMA's bank account. Deposits shall be made weekly. The use of petty cash shall not be allowed. RMA does not accept personal checks from parents or students. Money orders may be presented for payment.

Sec. 2. Operating Account.
The Board may require that all local, State and Federal funds be deposited into a single account maintained by a bank as defined in Education Code Section 45.201. Additionally, and except as provided in Sec. 5.4.3, the Board shall require that all local, State and Federal funds be disbursed from the same account. The bank account created and maintained pursuant to this section shall be commonly referred to as the Operating Account.

Sec. 3. Payroll Account.
The Board may authorize a second bank account for the sole purpose of disbursing the wages or salary and other compensation, less authorized deductions, from local, State and Federal funds to

[78] 19 TAC §100.1047(b); Tex. Bus. Org. Code §22.352

employees of RMA. A bank account so created and maintained shall be commonly referred to as the Payroll Account.

Sec. 4. Account Signatories.
The Board has authorized the Superintendent, the Chief Financial Officer, and the Board President as the signatories to RMA's bank accounts.

Sec. 5. Record of Cash Receipts and Disbursements.
The Superintendent or designee should prepare a financial management system that conforms to the requirements of the Texas Education Agency to record a unique record for each deposit made for and for each disbursement made from each source of funding.

Sec 6. Check Register.
The Superintendent or designee shall prepare a register of individual deposits and disbursements for the Operating and Payroll Accounts, commonly referred to as the Check Register.

Sec 7. Original, Itemized Records.
The Superintendent or designee shall maintain an original, itemized record of each deposit and disbursement supporting the transactions listed on the Check Register for the Operating Account and the Payroll Account.

Sec. 8. Reconciliation of Accounts.
The Superintendent or designee should reconcile statements received from the bank for the Operating and Payroll Accounts to the respective Check Registers, addressing and resolving discrepancies.

Sec. 11. Other Method of Disbursement.
The Superintendent or designee is authorized to disburse funds through the Operating and/or Payroll Account, charge accounts or credit accounts. Funds shall not be disbursed through debit or gift cards.

Sec. 13. Money Market Account.
The Board may authorize the use of a money market account maintained by a bank as defined in Education Code Section 45.201.

PG-5.220: Corporate Credit Accounts

Sec. 1. Purpose of Policy.
Through this policy, the Board of Directors (hereafter, the "Board") of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, "RMA") shall address the legal requirements, as applicable, promulgated at:

(a) Texas Constitution, Article 3, Sec. 50, 51, 52 and 53;
(b) Texas Business Organizations Code ("Tex. Bus. Org. Code") Sections 3.101, 22.201, 22.221 and 22.235;
(c) Texas Education Code ("Tex. Ed. Code"), Sections 12.107, 12.1052, 12.115(a)(2), 12.121, 12.128 and 45.105(c);

(d) Texas Administrative Code, Title 19 ("19 TAC"), Sections 100.1051, 100.1039, 100.1113, 100.1063, 100.1067, 100.1091 and 100.1203;
(e) Code of Federal Regulations, Title 2, Part 200 ("2 CFR 200"); and
(f) Financial Accountability System Resource Guide.

Sec. 2. Authority Over Fiscal Matters.
Sec.2.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution. Refer to the Board's Policy relating to its Authority Over Fiscal Matters (the "Controlling Policy") for requirements applicable to this policy.

Sec. 2.2. The Delegate shall report to the Board any business arrangement or transaction with an individual that is an officer and any conflicted,[79] interested[80] or related[81] party, as defined in other Board policy or applicable law. RMA and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 3. Board Authorization.
Sec. 3.1. The Board authorizes the Delegate to establish a corporate credit account(s) for the purpose of procuring goods and/or services for RMA activities, functions, programs and services and to facilitate business travel. In furtherance of this purpose, the Delegate may authorize certain RMA employees to use the corporate credit account(s).

Sec. 4. Compliance with Policy.
In establishing a corporate credit account(s), the Delegate should ensure compliance with the requirements set forth in this policy and other Board policy. In accepting the Delegate's authorization to use the corporate credit account(s), RMA employees should adhere to the requirements set forth in this policy and other Board policy.

Sec. 5. Employee Eligibility.
Sec. 5.1. Employment Status. RMA personnel shall be employed on a full-time status to be eligible to use the corporate credit account(s). RMA personnel employed on a less than full-time status, independent contractors, and volunteers are not eligible to use the corporate credit account(s).

Sec. 5.4. Participation Optional. RMA employees are not required to use RMA's corporate card account(s) to purchase goods and/or services or to conduct business travel. Instead, employees may submit an expense reimbursement request.

Sec. 6. Requirements for Approval and Use.
Sec. 6.1. Financial Responsibility. Prior to using RMA's corporate credit account(s), the employee may accept financial responsibility for any expenses charged to their assigned corporate credit account and card that fails to conform to the requirements of this policy and applicable law.

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[79] Tex. Ed. Code §12.1054; 19 TAC §§ 100.1131 through 100.1135
[80] 19 TAC §100.1047(f)
[81] Tex. Ed. Code §12.1166

Sec. 7. Delegate's Responsibilities.
The Delegate or designee shall:

(a) Oversee the administration of RMA's corporate credit account(s);
(b) Review each cardholder's expenses, approve or disapprove each cardholder's charges, and authorize the payment of all eligible expenses charged to the corporate credit account(s);
(c) If an expense is disapproved, inform the cardholder in writing of the amount(s) that were disallowed and the basis for the disallowance;
(d) Provide access to monthly statements to each employee authorized to use the corporate credit account(s);
(e) Monitor and enforce compliance with this policy, any other related Board policies, and any administrative procedures;
(f) Investigate any irregularities or alleged misconduct and report findings to the Board;
(g) Take control and possession of an employee's access to the corporate credit account(s) upon the employee's separation from employment with RMA or other relevant change in employment status; and
(h) Disclose, in writing, any violation of this policy by any employee to the Board.

Sec. 8. Authorized Employee Duties.
Sec. 8.1. Abuse and Waste Prohibited. Consistent with this policy, cardholders shall not use the corporate credit account(s) to abuse or waste RMA's financial resources and established lines of credits.

Sec. 8.2. Appropriate Use. Cardholders shall agree to the appropriate use of the corporate credit account(s) and card(s) assigned to them thereby restricting the use of said account(s) and card(s) to the purchase of goods and/or services for official RMA business.

Sec. 8.3. Billing Errors and Unrecognized Transactions. Cardholders shall identify and satisfactorily resolve any billing errors and unrecognized expenses.

Sec. 8.4. Credits and Returns. Cardholders shall return items for credit and not for cash refunds. Cardholders shall ensure that any returned items are credited to the corporate credit account(s).

Sec. 8.5. Disclosure of Conflicted, Interested, or Related-Party Transactions. Cardholders shall disclose to the Delegate or designee any business arrangement or transaction with any conflicted, interested, or related party, as defined in other Board policy or applicable law. Cardholders may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 8.6. Fraudulent Charges. Cardholders shall report fraudulent charges to the corporate credit account issuer and the Delegate or designee immediately after they become aware of the fraudulent charges.

Sec. 8.7 Fraudulent Use Prohibited. Cardholders shall not use their corporate credit account(s) and card(s) to commit fraud or other criminal act. Cardholders shall be liable for any fraudulent or other charges of a criminal nature.

Sec. 8.8 Liability for Charges. Cardholders shall agree to be liable for the expenses charged to the corporate credit account(s) and card(s) assigned to them and to pay the credit account and card issuer for the expenses incurred. Notwithstanding, personal use of the corporate credit account(s) and card(s) is strictly prohibited and any abuse may lead to loss of card privileged, as well as adverse employment action up to and including termination.

Sec. 8.9. Lost or Stolen Card(s). Cardholders shall report lost or stolen corporate credit cards to the issuer and the Delegate or designee immediately after they become aware of the loss.

Sec. 8.10. Method of Procurement. Cardholders are required to and shall be responsible for procuring goods and services pursuant to the procurement methods identified in the Board's Policy relating to Purchasing and Contracting.

Sec. 8.11. Personal Use Prohibited. Cardholders shall only use their corporate credit account(s) and card(s) for official RMA business only and shall not use the account(s) and card(s) for their personal benefit. Cardholders shall agree to be liable for any charges of a personal nature and may face personnel action, up to and including termination.

Sec. 8.12. Prudent Person Rule. An authorized employee, or cardholder, shall limit the use of the corporate credit account(s) to costs that adhere to the Prudent Person Rule set forth in Sec. 7 of the Controlling Policy.

Sec. 8.13. Reconciliation Required. Cardholders shall reconcile any and all charges disclosed on the monthly statement pertaining to their assigned corporate credit account(s) to original, itemized receipts. Cardholders shall subsequently submit the receipts to the Delegate or designee and identify any expenses for which a receipt is missing, or which was not authorized by the cardholder. Cardholder shall identify the appropriate funding source and budget code for the expenditure.

Sec 8.15 Safeguarding Account. Cardholders shall appropriately safeguard their assigned corporate credit account(s) and card(s), including the account number, the security code, expiration date and associated mailing zip code to protect against any unauthorized access of the corporate credit account.

Sec 8.16 Sales Taxes. Since the School is tax-exempt, cardholders shall ensure that sales taxes are not charged on any purchase.

Sec. 10. Prohibited Use.
Sec. 10.1. Cardholders shall not use their assigned corporate credit account(s) and card(s) in excess of the specified credit limit.

Sec. 10.2. Although not all inclusive, cardholders should refrain from using their assigned corporate credit account(s) and card(s) for the following types of activities and expenses.

(a) Alcoholic beverages;
(b) Cash advances;
(c) Donations;
(d) Food and beverages not associated with travel for official RMA business;

(e) Gift cards;
(f) Gratuities or tips;
(g) Information technology hardware or software;
(h) Loans;
(i) Medical services, prescription and nonprescription drugs, or supplements;
(j) Non-business related charges, including any expense resulting in a personal benefit;
(k) Political contributions or lobbying activities; and
(l) Purchases with related party transactions.

Sec. 10.3. Cardholders may not use their assigned corporate credit account(s) and card(s) for component, separate, or sequential purchases, or to avoid or bypass RMA's purchasing and payment policies and procedures.

Sec. 11. Termination of Cardholder Participation.
A cardholder's corporate credit account(s) and card(s) may be cancelled for the following reasons:

(a) Cardholder is no longer employed by RMA;
(b) Cardholder changes position and their new position does not qualify for eligibility;
(c) In using their assigned corporate card(s), cardholder materially violated this policy or other related Board policy and any pertinent administrative procedures; and
(d) Cardholder is suspended, placed on administrative leave, or is subject to other adverse employment action.

Sec. 12. Required Substantiation.
Sec. 12.1 For each transaction, cardholders shall provide:

a. a sufficiently detailed description of the business purpose for the transaction;
b. the names of the individuals who were part of the transaction, including the organization they represented and the official capacity in which they represented said organization; and

The original, itemized third-party receipts and other such records that fully discloses:

a. the vendor's name, place of business and contact information;
b. the transaction date and total amount of the purchase; and
c. individual line items for the goods and/or services purchased and the cost of each item.

Sec. 12.2. Cardholders shall ensure that vendors provide an original, itemized receipt.

Sec. 12.3. If the cardholder fails to provide the required substantiation the cardholder may be liable for the amount(s) of the unsubstantiated transaction(s).

Sec. 14. Participation in Rewards Program.
RMA may participate in any rewards program offered by the corporate credit account issuer(s) and shall retain ownership of any rewards earned under said program and shall use any rewards received for the benefit of RMA's students.

PG-5.290: Fundraising

Sec. 1 Purpose of Policy.
Through this policy, the Board of Directors (hereafter, the "Board") of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, "RMA") shall address the legal requirements, as applicable, promulgated at:

(a) Texas Education Code ("Tex. Ed. Code") Sections 12.115(a)(2) and 12.128;
(i) Texas Business Organizations Code ("Tex. Bus. Org. Code");
(ii) Texas Administrative Code, Title 19 ("19 TAC"), §:100.1067(b); and
(iii) *Government Auditing Standards*.

Sec. 2. Applicability of Policy.
This policy pertains to the receipt, safeguarding and use of funds received by RMA personnel.

Sec. 3. Authority Over Fiscal Matters.
Sec. 3.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution. Refer to the Board's Policy relating to its Authority Over Fiscal Matters (the "Controlling Policy") for requirements applicable to this policy.

Sec. 4. Contributions Received.
Sec. 4.1. Cash Defined. For purposes of this policy, cash means coin, currency, money orders, cashier's checks, personal checks, and business checks, including any funds maintained in a bank, investment, savings, or other similar account.

Sec. 4.2. In-Kind Contributions. In-kind contributions are recognized and recorded at fair market value on the date received. The donor shall provide the fair market value of the donated item or service.

Sec. 4.3. Contributions to RMA Child Nutrition Program. RMA's Child Nutrition Program (CNP) staff may collect and deposit all monies received from students, or their parents or guardians, for meals and snacks. CNP staff shall also create and maintain records of all such payments to provide parents (or guardians) and students timely, accurate account balances.

Sec. 4.4. Contributions Received by Campus. Campuses are only authorized to receive contributions from donors. Moreover, campus principals may not accept a contribution governed by the Board's Policy for Gift Acceptance.

Sec. 4.5. Contributions Received from Vendors. If a vendor makes a contribution to an employee, the employee shall route the contribution to the Delegate or designee. The Delegate or designee should maintain proper control of the contribution.

Sec. 4.6. Special Events. RMA may organize special events for the purpose of raising funds from donors. RMA directors must ensure that special events yield fundraising results that exceed the cost of the event by at least fifty percent (50%).

Sec. 4.7. Use of Unrestricted Contributions. An unrestricted contribution is a contribution from a donor who did not require that any condition(s) be met so that the contribution may be used. In this instance, RMA may use an unrestricted contribution for any lawful purpose. However, unrestricted and lawful purposes do not mean "any purpose" but rather means and is limited to an authorized charitable purpose of RMA that is in furtherance of RMA's mission and in the best interest of students. The applicable grant or donation agreement should also be considered and reviewed to confirm. Any doubts on use or if it unclear, the Delegate or designee should confirm intent and/or approval in writing with the donor.

Sec. 4.8. Use of Restricted Contributions. A restricted contribution is a contribution from a donor who stipulated, in writing, that a specific condition(s) must be met so that the contribution may be used. In this instance, RMA may only use a restricted contribution as stipulated by the donor. To ensure compliance with the donor's stipulation(s), the Delegate or designee shall obtain a written agreement from the donor setting forth the specific condition(s) that must be met to enable RMA to use the contribution received.

Sec. 4.10 Compliance with Donor Agreements. The Delegate or designee should ensure compliance with any donor/grant agreement and periodically review the same.

Sec. 5. Tax-Exempt Letter.
Sec. 5.2. Upon Request from Donor. RMA shall issue a tax-exempt letter to a donor upon request or as otherwise where required by law.

Sec. 5.6. Records. The Delegate or designee should create, obtain, and maintain adequate and sufficient records to support the receipt of contributions and fundraising proceeds, as required by applicable law, rule and policy.

PG-5.310: CAPITAL ASSETS

Sec. 1. Purpose of policy.
Through this policy, the Board of Directors (hereafter, the "Board") of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, "RMA") shall address the legal requirements, as applicable, promulgated at:

(a) Texas Education Code ("Tex. Ed. Code") Sections 12.107, 12.128 and 45.105(c);
(b) Texas Administrative Code, Title 19 ("19 TAC"), Sections 100.1001, 100.1043, and 100.1091;
(c) Code of Federal Regulations, Title 2, Part 200 ("2 CFR 200"); and
(d) Financial Accountability System Resource Guide.

Sec. 2. Authority Over Fiscal Matters.
Sec. 2.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution.

Refer to the Board's Policy relating to its Authority Over Fiscal Matters (the "Controlling Policy") for requirements applicable to this policy.

Sec. 3. Capital Assets.

Sec. 3.1. Capital Assets Defined.

Capital assets means any tangible or intangible item of property acquired by RMA, regardless of funding source used or if donated, with a cost of $10,000 or more and a useful life of greater than one (1) year at the time of acquisition.[82] The broad range of capital assets that are used in operations, include:

(a) Real property, including land, buildings and improvements to land and buildings;
(b) Leasehold improvements; and
(c) Personal property, including:
    (1) Furniture and equipment, including computer hardware;
    (2) Computer software;
    (3) Contract rights, intellectual property (such as copyrights, patents, and trademarks) and other intangible property;
    (4) Vehicles; and
    (5) Any other form of personal property recognized by Texas law.[83]

Sec. 3.2. Capitalized Costs.

Sec. 3.2.1. RMA should capitalize costs incurred for the acquisition of an asset in a manner consistent with generally accepted accounting principles. At a minimum, RMA should capitalize an asset's purchase price and any expenses incurred for ancillary activities (e.g., site preparation, transportation and installation) to bring the asset to the condition and location necessary for its intended use.

Sec. 3.2.2. RMA should capitalize the fair market value of donated assets as of the date that the asset was donated.

Sec. 3.2.3. RMA should capitalize the acquisition cost of an asset or the fair market value of a donated asset if the asset at the time of acquisition or donation has a useful life of more than one (1) year.

Sec. 3.2.4. RMA should capitalize the cost of improvements to property if the improvements:

(a) Extend the useful life of the asset;
(b) Enhance the overall value of the asset; or
(c) Adapt the asset so that it may be repurposed.

Sec 3.3 Capitalization Thresholds.

The School shall capitalize the cost of acquiring an asset if the cost per unit equals or exceeds the following amounts.

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[82] 2 CFR §200.1
[83] 19 TAC §100.1001(6)

Property Description	Capitalization Threshold
Land	$0
Improvements to land	$50,000
Buildings	$50,000
Improvements to buildings	$50,000
Leasehold improvements	$50,000
Construction in progress	$50,000
Furniture and equipment	$10,000
Vehicles	$10,000
Other personal property	$10,000

Sec. 3.4 Approval Required.[84]

The Board shall approve all purchases of real property, the purchase of construction services for a new building or the renovation of an existing building.

The Board may delegate its authority for construction, renovations or repairs pursuant to Education Code § 44.0312 by written resolution, with such delegation to a person, representatives or committee, but should provide notice of this delegation and the limits of the delegation as required by law and include the same in all request for bids, proposals or qualifications or as an addendum to a request.

Sec. 4. Depreciation.
Sec. 4.1 Authorized Method of Depreciation.
Other than the capitalized cost for land, RMA should utilize the straight-line method of depreciation to amortize the capitalized costs of all assets over their useful life. Consistent with generally accepted accounting principles, RMA should calculate the annual depreciation of capitalized costs.

Sec. 4.2 Useful Life.
Consistent with generally accepted accounting principles, the useful life of an asset means the period during which the asset is projected to generate revenue or provide other valuable service to RMA and not how long the asset will last.

Sec. 5. Inventory of Assets.
Sec. 5.1 The Delegate or designee shall maintain an inventory of all capital assets.

Sec. 5.2 The Delegate or designee shall affix upon assets a permanent, machine-readable label that clearly identifies the asset as RMA property and uniquely accounts for the asset in RMA's inventory records.

[84] *El Paso Education Initiative, Inc. v. Amex Properties, LLC*, 385 S.W.3d 701, 706, 708 (Tex. App.–El Paso 2012, pet. denied.); 19 TAC §§ 100.1033(b)(14)(C)(ii) and 100.1101(b)-(c)

Sec. 5.3 The Delegate or designee(s) should conduct a physical inventory of assets every two years and shall ensure appropriate corrective or other measures are undertaken for any assets that are not located.

Sec. 5.4 RMA will maintain accurate, complete, and up-to-date records of all capital assets through physical counts, the review of purchase records, and other methods, as deemed appropriate and necessary.

Sec. 6. Safeguarding of Assets.
Sec. 6.1 The Delegate or designee shall ensure that assets are safeguarded.

Sec 6.2 The Delegate or designee shall adopt a system for transferring assets assigned to a campus or department to another campus or department.

Sec. 7. Disposition of Capital Assets.
Sec. 7.1 Except for real property, the Delegate is authorized, by any means commonly used, to dispose of assets that have concluded their useful life, are obsolete or deemed unnecessary, are damaged beyond repair or deemed too costly to repair or are lost or stolen. If an asset is still serviceable, the Delegate or designee shall first determine if a need for the asset exists elsewhere within RMA before disposing of the asset.

Sec. 7.2 The Board shall authorize any disposal of assets through a donation to another charitable, tax-exempt organization. For donations to charitable organizations, the Board shall obtain a written assurance from the organization to which the asset is being donated that it will use the donated asset for a public purpose and shall stipulate that, as a condition of the donation, ownership of the asset shall revert to RMA if the recipient organization discontinues using the asset for a public purpose.

Sec. 7.3 If the asset is disposed of through a sale, the Delegate or designee shall sell the asset for fair market value and shall attribute any proceeds to the originating fund source. As a condition of selling the asset, RMA shall make no warranties or guarantees concerning the continued functionality of the asset.

Sec. 7.4 In the following order of precedence, the Delegate or designee may sell assets to students, teachers and teacher aides, parents, other RMA personnel, and the public at large. In doing so, the Delegate or designee shall not act in a manner that is or appears to be preferential to any one individual, except as indicated in the order of precedence set forth in this section.

Sec. 7.5 If the asset has no value, the Delegate or designee may dispose of the asset as deemed administratively expedient.[85]

Sec. 7.6 The Delegate or designee may adopt a system for the documented disposal of assets, including the Delegate's approval for the disposal of any capital asset with a fair market or residual value exceeding $10,000 per unit.

[85] An administratively expedient disposal does not result in any additional administrative process beyond documenting the disposal of the asset.

Sec. 7.7 Prior to the final disposal of an asset, the Delegate or designee shall remove or cause to have removed any RMA emblems and other identifying information, such as license plates and inventory tags, from the asset. Additionally, any computing device shall have its storage mediums permanently erased of any software owned or subscribed to by RMA and of any data, especially personally identifiable data pertaining to students and staff.

Sec. 7.8 RMA personnel are prohibited from receiving, through sale or otherwise, any asset that is to be disposed except as established under this policy and pursuant to the administrative procedures adopted under this policy.

PG-5.320: Investment of funds

Sec. 1. Purpose of Policy.
Through this policy, the Board of Directors (hereafter, the "Board") of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, "RMA") shall address the legal requirements, as applicable, promulgated at:

(a) Texas Business Organizations Code ("Tex. Bus. Org. Code") Sections 3.101 and 22.201;
(b) Texas Education Code ("Tex. Ed. Code") Section 12.1053(b)(3);
(c) Texas Government Code ("Tex. Gov't. Code") Sections 2256.009 through 2256.016;
(d) Texas Administrative Code, Title 19 ("19 TAC"), §100.1065; and
(e) Financial Accountability System Resource Guide ("FASRG").

Sec. 2. Authority Over Fiscal Matters.
Sec. 2.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution. Refer to the Board's Policy relating to its Authority Over Fiscal Matters (the "Controlling Policy") for requirements applicable to this policy.

Sec. 3. Investment Objectives.[86]
In general, the Board and Delegate shall observe the following objectives when investing funds:

(a) Preservation and safety of principal;
(b) Liquidity; and
(c) Yield.

Sec 4. Account Maintenance.[87]
The Delegate or designee shall ensure that investments are maintained in discrete and distinct accounts that separate funds pertaining to non-School activities, functions, programs and services from public funds.

[86] 19 TAC §100.1045(c)(1)
[87] 19 TAC §100.1065(b)(2)

Sec. 5. Investment Records.[88]
The Delegate or designee should ensure that RMA creates and maintains accurate and complete records of any and all investments of RMA funds.

Sec. 6. Contractual Considerations.[89]
The Delegate should ensure that investments are made in accordance with any applicable provision or covenant contained in a debt instrument, bond indenture, or similar agreement.

Sec. 7 Authorization Thresholds.[90]
Subject to the Board's final authority over the use of public funds, the Delegate or designee is authorized to invest an amount not exceeding $50,000 for a period not exceeding one (1) year in the authorized investments identified in this policy. Otherwise, the Delegate or designee shall recommend to the Board any investment of surplus cash exceeding $50,000 or for a period exceeding one year.

Sec. 8. Authorized Investments.
The Board and Delegate or designee may purchase, sell and invest public funds in the following authorized investments.[91]

Sec. 8.1. Obligations of or Guaranteed by a Governmental Entity.[92] The following are authorized investments under this subsection.

(a) Obligations, including letters of credit, of the United States or its agencies and instrumentalities, including the Federal Home Loan Banks.
(b) Direct obligations of the State of Texas or its agencies and instrumentalities.
(c) Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States.
(d) Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the State of Texas, the United States, or their respective agencies or instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation ("FDIC") or by the explicit full faith and credit of the United States.
(e) Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent.
(f) Bonds issued, assumed, or guaranteed by the State of Israel.
(g) Interest-bearing banking deposits that are guaranteed or insured by:
    (1) the FDIC or its successor; or
    (2) the National Credit Union Share Insurance Fund ("NCUSIF") or its successor.
(h) Interest-bearing banking deposits other than those described by (g) above if:

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88 Tex. Bus. Org. Code §22.352(a); Tex. Ed. Code §12.115(a)(2); 19 TAC §§ 100.1033(c)(1)(A)(vi)100.1047(b)(1)
89 19 TAC §100.1045(b)(3)
90 19 TAC §100.1033(b)(14)(C)(ii); Consistent with Tex. Gov't. Code §2256.003
91 Tex. Ed. Code §12.1053(b)(3)
92 Tex. Gov't. Code §2256.009(a)

(1) the funds invested in the banking deposits are invested through:
    (A) a broker with a main office or branch office in the State of Texas that RMA selects from a list the Board, or, if so designated, an investment committee, adopts as required by Tex. Gov't. Code §2256.025; or
    (B) a depository institution with a main office or branch office in the State of Texas that RMA selects;
(2) the broker or depository institution selected arranges for the deposit of the funds in the banking deposits in one or more federally insured depository institutions, regardless of where located, for RMA's account;
(3) the full amount of the principal and accrued interest of the banking deposits is insured by the United States or an instrumentality of the United States; and
(4) RMA appoints as its custodian of the banking deposits issued for RMA's account:
    (A) the depository institution selected;
    (B) an entity described by Tex. Gov't. Code §2257.041(d); or
    (C) a clearing broker dealer registered with the Securities and Exchange Commission ("SEC") and operating under SEC Rule 15c3-3.

Sec. 8.2. Prohibited Investments.[93] The following investments are prohibited.

(a) Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal.
(b) Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest.
(c) Collateralized mortgage obligations that have a stated final maturity date of greater than ten (10) years.
(d) Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

Sec. 8.3. Certificates of Deposit and Share Certificates.[94] A certificate of deposit or share certificate is an authorized investment under this policy if the certificate is issued by a depository institution that has its main office or a branch office in the State of Texas and is:

(a) guaranteed or insured by the FDIC or its successor or the NCUSIF or its successor;
(b) mortgage-backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, and
(c) secured accordance with Tex. Gov't. Code Chapter 2257 or in any other manner and amount provided by law for deposits of RMA.

Sec. 8.4. Other Authorized Form for Certificates of Deposit and Share Certificates.[95] An investment in a certificate of deposit is authorized under this subsection if it is made under the following conditions:

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93 Tex. Gov't. Code §2256.009(b)
94 Tex. Gov't. Code §2256.010(a)
95 Tex. Gov't. Code §2256.010(b)

(a) the funds are invested by RMA entity through;

(1) a broker that has its main office or a branch office in the State of Texas and is selected from a list adopted by RMA in accordance with Tex. Gov't. Code §2256.025; or
(2) a depository institution that has its main office or a branch office in the State of Texas and that is selected by RMA;

(b) the broker or the depository institution selected by RMA that arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of RMA;
(c) the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States; and
(d) RMA appoints the depository institution as an entity described by Tex. Gov't. Code §2257.041(d), or a clearing broker-dealer registered with the SEC and operating pursuant to SEC Rule 15c3-3 as custodian for RMA with respect to the certificates of deposit issued for the account of RMA.

Sec. 8.5. Repurchase Agreements.[96] A fully collateralized repurchase agreement is an authorized investment under this subsection if the repurchase agreement:
(a) has a defined termination date;
(b) is secured by a combination of cash and obligations authorized in this policy;
(c) requires the securities being purchased by RMA or cash held by RMA to be pledged to RMA, either directly or through a joint account approved by the entity, held in RMA's name either directly or through a joint account approved by the entity, and deposited at the time the investment is made with RMA or with a third party selected and approved by RMA; and
(d) is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in the State of Texas.

Sec. 8.5.1. *Repurchase Agreement Defined*. For purposes of this policy, "repurchase agreement" means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations described in this policy, at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement.

Sec 8.5.2 *Joint Account Defined*. For purposes of this policy, "joint account" means an account maintained by a custodian bank and established on behalf of two or more parties to engage in aggregate repurchase agreement transactions.

Sec. 8.5.3. *Term of Agreement*. The term of any reverse security repurchase agreement may not exceed ninety (90) days after the date the reverse security repurchase agreement is delivered.

Sec. 8.5.4. *Use of Invested Funds*. Money received by RMA under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of

[96] Tex. Gov't. Code §2256.011

the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

Sec. 8.6 Securities Lending Programs.[97] A securities lending program is an authorized investment if it meets the following conditions:

(a) the value of the securities loaned is at least 100% collateralized, including accrued income;
(b) a loan made under the program must allow for termination at any time;
(c) a loan made under the program is secured by:
    (1) pledged securities described in this policy;
    (2) pledged irrevocable letters of credit issued by a bank that is organized and existing under the laws of the United States or any other state and continuously rated by at least one nationally recognized investment rating firm at not less than "A" or its equivalent; or
    (3) cash invested in accordance with this policy;
(d) the terms of the loan require that the securities being held as collateral be:
    (1) pledged to RMA;
    (2) held in RMA's name; and
    (3) deposited at the time the investment is made with RMA or with a third party selected or approved by the Board;
(e) the loan is placed through a primary government securities dealer, as defined at 5 CFR §6801.102(f), as that regulation existed on September 1, 2003, or a financial institution doing business in the State of Texas; and
(f) the agreement to lend securities has a term of one year or less.

Sec. 8.7. Banker's Acceptances.[98] A banker's acceptance is an authorized investment if it:
(a) has a stated maturity of 270 days or fewer from the date of its issuance;
(b) will be, in accordance with its terms, liquidated in full at maturity;
(c) is eligible for collateral for borrowing from a Federal Reserve Bank; and
(d) is accepted by a bank organized and existing under the laws of the United States or any state, if the short-term obligations of the bank, or of a bank holding company of which the bank is the largest subsidiary, are rated not less than "A-1" or "P-1" or an equivalent rating by at least one nationally recognized credit rating agency.

Sec. 8.8. Commercial Paper.[99] Commercial paper is an authorized investment if it:
(a) has a stated maturity of 365 days or fewer from the date of issuance; and
(b) is rated not less than "A-1" or "P-1" or an equivalent rating by at least two (2) nationally recognized credit rating agencies or one (1) nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

Sec. 8.9. Mutual Funds.

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97 Tex. Gov't. Code §2256.0115
98 Tex. Gov't. Code §2256.012
99 Tex. Gov't. Code §2256.013

Sec. 8.9.1. *No-load Money Market Mutual Funds*.[100] No-load money market mutual funds are an authorized investment if they:

(a) are registered with and regulated by the SEC;
(b) provide RMA with a prospectus and other information required by the Securities and Exchange Act of 1934 (United States Code, Title 15 ("15 USC), Section 78a, et seq.) or the Investment Company Act of 1940 (15 USC §80a-1, et seq.); and
(c) complies with federal SEC Rule 2a-7 (17 CFR §270.2a-7), promulgated under the Investment Company Act of 1940 (15 USC §80a-1 et seq.).

Sec. 8.9.2. *No-load Mutual Funds*.[101] No-load mutual funds are an authorized investment if they:

(a) are registered with the SEC;
(b) have an average weighted maturity of less than two (2) years; and
(c) have a duration of one (1) year or more and either:
    (1) is invested exclusively in obligations approved under Tex. Gov't. Code, Chapter 2256, Subchapter A; or
    (2) the investment portfolio is limited to investment grade securities, excluding asset-backed securities.

Sec. 8.9.3. *Prohibited Investments*.[102] RMA may not invest:

(a) in the aggregate more than 15% of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service, in no-load mutual funds;
(b) any portion of bond proceeds, reserves, and funds held for debt service, in no-load market mutual funds; or
(c) its funds or funds under its control, including bond proceeds and reserves and other funds held for debt service, in any one mutual fund described in this policy in an amount that exceeds 10% of the total assets of the mutual fund.

Sec.8.10 Guaranteed Investment Contracts.[103] A guaranteed investment contract is an authorized investment for bond proceeds if the guaranteed investment contract:

(a) has a defined termination date;
(b) is secured by obligations authorized under this policy, excluding those obligations described in this policy, in an amount at least equal to the amount of bond proceeds invested under the contract; and
(c) is pledged to RMA and deposited with RMA or with a third party selected and approved by the Board.

Sec. 8.10.1. *Qualifying Requirements*. To be eligible as an authorized investment, the following requirements must be met.

(a) The Board specifically authorizes the guaranteed investment contract as an eligible investment in a resolution authorizing the issuance of bonds.
(b) RMA must receive bids from at least three (3) separate providers with no material financial interest in the bonds from which the proceeds were received.

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[100] Tex. Gov't. Code §2256.014(a)
[101] Tex. Gov't. Code §2256.014(b)
[102] Tex. Gov't. Code §2256.014(c)
[103] Tex. Gov't. Code §2256.015

(c) RMA must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received.
(d) The price of the guaranteed investment contract must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested.
(e) The provider must certify the administrative costs reasonably expected to be paid to third parties in connection with the guaranteed investment contract.

Sec. 8.10.2. *Limitation to Contract Term*. Bond proceeds, other than bond proceeds representing reserves and funds maintained for debt service purposes, may not be invested in a guaranteed investment contract with a term longer than five (5) years from the date of issuance of the bonds.

Sec. 8.11. Investment Pools.[104] An investment pool is an authorized investment if:
(a) the Board authorizes the investment in the particular pool through policy or resolution; and
(b) the investment pool only invests the funds that it receives in the investments authorized under Tex. Gov't. Code Chapter 2256, Subchapter A.

Sec. 8.11.1. *Receipt of Required Disclosure*. In order to invest in an investment pool, the Delegate or his designee should receive an offering circular or other similar disclosure instrument containing, at a minimum, the following information:
(a) the types of investments in which money is allowed to be invested;
(b) the maximum average dollar-weighted maturity allowed, based on the stated maturity date, of the pool;
(c) the maximum stated maturity date any investment security within the portfolio has;
(d) the objectives of the pool;
(e) the size of the pool;
(f) the names of the members of the advisory board of the pool and the dates their terms expire;
(g) the custodian bank that will safekeep the pool's assets;
(h) whether the intent of the pool is to maintain a net asset value of one dollar and the risk of market price fluctuation;
(i) whether the only source of payment is the assets of the pool at market value or whether there is a secondary source of payment, such as insurance or guarantees, and a description of the secondary source of payment;
(j) the name and address of the independent auditor of the pool;
(k) the requirements to be satisfied for RMA to deposit funds in and withdraw funds from the pool and any deadlines or other operating policies required for RMA to invest funds in and withdraw funds from the pool;
(l) the performance history of the pool, including yield, average dollar-weighted maturities, and expense ratios; and
(m) the pool's policy regarding holding deposits in cash.

Sec. 8.11.2. *Continued Receipt of Required Disclosures*. In order to continue investing in the investment pool, the Superintendent or his designee must receive the following information:
(a) investment transaction confirmations; and

[104] Tex. Gov't. Code §2256.016

(b) a monthly report that contains, at a minimum, the following information:
    (1) the types and percentage breakdown of securities in which the pool is invested;
    (2) the current average dollar-weighted maturity, based on the stated maturity date, of the pool;
    (3) the current percentage of the pool's portfolio in investments that have stated maturities of more than one (1) year;
    (4) the book value versus the market value of the pool's portfolio, using amortized cost valuation;
    (5) the size of the pool;
    (6) the number of participants in the pool;
    (7) the custodian bank that is safekeeping the assets of the pool;
    (8) a listing of RMA's daily transaction activity;
    (9) the yield and expense ratio of the pool, including a statement regarding how the yield is calculated;
    (10) the portfolio managers of the pool; and
    (11) any changes or addenda to the offering circular.

Sec. 8.11.3. *Yield Calculation*. In this section, for purposes of an investment pool for which a $1.00 net asset value is maintained, "yield" shall be calculated in accordance with regulations governing the registration of open-end management investment companies under the Investment Company Act of 1940, as promulgated from time to time by the SEC.

Sec. 8.11.4. *Monitoring of Investment Pool Compliance*. The Superintendent or his designee shall monitor the investment pool's compliance with Sec. 9.9.1, 9.9.2 and 9.9.3 above and Tex. Gov't. Code § 2256.016(f)-(k).

Sec. 9. Report to the Board[105]
The Delegate may provide to the Board a report disclosing the status of any and all amounts invested under this policy.

PG-5.410: PAYROLL ADVANCES

RMA does not issue payroll advances or loans to employees.

The paydays for all employees shall be on the 15th and 30th of each month. When these days fall on a weekend, holiday, or non-duty day. RMA will pay on the duty day prior.

PG-5.510: PURCHASING AND CONTRACTING

Sec. 1. Purpose of Policy.
Through this policy, the Board of Directors (hereafter, the "Board") of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, "RMA") shall address the legal requirements, as applicable, promulgated at:

[105] FASRG Module 2

(a) Texas Business Organizations Code ("Tex. Bus. Org. Code") Sections 3.101, 22.201, and 22.221;
(b) Texas Education Code ("Tex. Ed. Code") Sections 12.104(b)(1), 12.1053(b)(2), 12.107(a), 12.115(a)(2) 12.121 and Chapter 44, Subchapter B ("Chapter 44");
(c) Texas Government Code ("Tex. Gov't. Code") Chapter 2254, Subchapter A and Chapter 2269 ("Chapter 2269");
(d) Texas Administrative Code, Title 19 ("19 TAC"), Chapter 100, notably §§ 100.079, 100.113, 100.1067(b)
(e) Code of Federal Regulations, Title 2, Part 200 ("2 CFR 200"); and
(f) Financial Accountability System Resource Guide ("FASRG"); and
(g) *Standards for Internal Control in the Federal Government*.

Sec. 3. Authority Over Fiscal Matters.
Sec. 3.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution.

Sec. 4. Definitions.
Sec. 4.1. "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.[106]

Sec. 4.4. "Non-professional services" means any service not specifically identified as a professional service under Sec. 4.6 of this policy.

Sec. 4.5. "Personal property" means an interest in tangible and intangible property other than real property, including:
(a) furniture, equipment, supplies, and other goods;
(b) computer hardware and software;
(c) contract rights, intellectual property such as patents, and other intangible property;
(d) cash, currency, funds, bank accounts, securities, and other investment instruments;
(e) the right to repayment of a loan, advance, or prepayment or to the payment of other receivables; and
(f) any other form of personal property recognized by Texas law, such as vehicles.[107]

Sec. 4.6. "Professional services" means services:
(a) Within the scope of the practice, as defined by state law, of:
    (1) Accounting;
    (2) Architecture;
    (3) Landscape architecture;
    (4) Land surveying;
    (5) Medicine;
    (6) Optometry;
    (7) Professional engineering;

[106] Tex. Ed. Code §44.032(a)(1)
[107] 19 TAC §100.1001(6), 2 CFR §200.1

(8) Real estate appraising; or
(9) Professional nursing; or

(b) Provided in connection with the professional employment or practice of a person who is licensed or registered as:
(1) A certified public accountant;
(2) An architect;
(3) A landscape architect;
(4) A land surveyor;
(5) A physician, including a surgeon;
(6) An optometrist;
(7) A professional engineer;
(8) A state certified or state licensed real estate appraiser; or
(9) A registered nurse or

(c) Provided by a person lawfully engaged in interior design.[108]

Sec. 4.7. "Public works" means the construction, alteration, renovation, or repair of a public building, structure, road, highway, or other improvement or addition to real property.[109]

Sec. 4.8. "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.[110]

Sec. 4.9. "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.[111]

Sec. 4.10. "Services" means professional and non-professional services.

Sec. 5. General Requirements Applicable to All Purchases.
The policy requirements established under this Sec. 5 shall apply to all purchases of goods and services regardless of fund source used.

Sec. 5.1. Authority to Procure Goods and Services**.**[112]
Sec. 5.1.1. The Delegate or designee may approve the procurement of goods and services conforming with this policy and applicable law up to the amounts authorized by the Board.

Sec 5.1.2 The Delegate or designee may not approve the procurement of goods and services that result in an expenditure of funds in excess of the item(s) appropriated in the Adopted Budget, as amended.

Sec. 5.1.3. The Delegate or designee may not approve a procurement of goods and services failing to conform with this policy and applicable law.

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[108] Tex. Gov't. Code §2254.002(2)
[109] Tex. Gov't. Code §2269.001(6); Tex. Local Gov't. Code §271.024
[110] Tex. Ed. Code §44.032(a)(2)
[111] Tex. Ed. Code §44.032(a)(3)
[112] Tex. Ed. Code §44.052

Sec. 5.2. Benefit of the Students.[113]

RMA shall only acquire goods and services for the benefit of RMA's students and that provide best value to the students.

Sec 5.3 Board Approval Required.[114]
Prior to executing any contract for the procurement of goods and services, the Board shall approve the contract.

Sec. 5.4. Conflicted,[115] Interested[116] and Related[117] Party Transactions.

Sec. 5.4.1. The Board shall approve or disapprove any business arrangement or transaction with an individual that is an officer and any conflicted, interested or related party, as defined in other Board policy or applicable law.

Sec. 5.4.2. RMA may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 5.7. Employee Purchases Prohibited**.**[118]
RMA employees are prohibited from conducting any transaction that results in the purchase of goods and services and that obligates RMA funds and otherwise results in the expenditure of RMA funds except as provided in this and other Board policy. If an RMA employee fails to follow this policy to purchase goods and services, the employee may be financially responsible for any expenses incurred regardless of the benefit to RMA and its students.

Sec. 5.8. Officer Responsible.
Each RMA officer shall be responsible for any and all expenses from the budget approved for their department or campus. Each officer (or designee) must work with the Delegate or designee to purchase goods and services pursuant to this policy. Alternatively, the officer may use the corporate credit account(s) to purchase goods and services up to the limits established in this policy.

Sec. 5.9. Purchase Order System.[119]
The Delegate or designee shall establish and maintain a purchase order system. The purchase order shall serve as the formal method for procuring goods and/or services from a vendor and shall have the effect of obligating RMA to remit payment to the vendor upon receipt of the goods and/or services purchased.

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113 Tex. Ed. Code §12.107(a); 19 TAC §100.1043(a)
114 *See* Controlling Policy, Sec. 3.1(j) and 6.2.
115 Tex. Ed. Code §12.1054; 19 TAC §§ 100.1131 through 100.1135
116 19 TAC §100.1047(f)
117 Tex. Ed. Code §12.1166
118 Ibid.
119 Texas Business and Commerce Code §2.206(a)(2)

Sec. 5.9.1. Required Approvals. Only the Delegate or designee shall be authorized to approve purchase orders.

Sec. 5.9.2. Issuance Prohibited. RMA employees may not issue a purchase order to a vendor unless it has been approved by the Delegate or designee.

Sec. 5.9.3. Failure to Properly Issue. If an RMA employee issues a purchase order to a vendor without the required approvals the employee may be financially responsible for the purchase.

Sec. 5.10. Qualified Vendors.[120]
Sec. 5.10.1. Richard Milburn Academy directors and employees may only procure goods and/or services from qualified vendors.

Sec. 5.10.2. For purposes of this policy, a qualified vendor is a responsible contractor possessing the ability to perform successfully under the terms and conditions of procurement.

Sec. 5.10.3. To provide fair and open competition for each procurement, RMA directors and employees may consider the following matters in determining if a vendor is qualified:

(a) Contractor integrity.
(b) Extent to which the goods or services meet RMA's needs.
(c) Financial and technical resources.
(d) Quality of the vendor's goods or services.
(e) Record of past performance, including:
    (1) Reputation of the vendor and of the vendor's goods or services.
    (2) Vendor's past relationship with RMA

Sec. 5.10.4. The Delegate or designee should maintain a list of qualified vendors to facilitate the procurement process.

Sec 5.12 Segregation of Duties; Checks and Balances.[121]
The Delegate shall ensure an appropriate segregation of duties between the following functions:

(a) Preparation of purchase requisitions and purchase orders;
(b) Solicitation of quotes or preparation of requests for bids, proposals or qualifications;
(c) Receipt of personal property and/or services and preparation of receiving report attesting to receipt of purchased property;
(d) Receipt of invoices and reconciliation of invoices to receiving reports and purchase orders;
(e) Preparation of payment requests;
(f) Accounting for purchases; and
(g) Approval for all of the above.

Sec. 5.13. Separate, Sequential or Component Purchases Prohibited.[122]

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120 Tex. Ed. Code §44.031(b); 2 CFR §200.318(h)
121 Tex. Ed. Code §12.115(a)(2); 2 CFR §§ 200.303 and 200.328
122 Tex. Ed. Code §44.032

The Delegate or designee and RMA employees are prohibited from making or authorizing separate, sequential, or component purchases to avoid the requirements of this policy.

Sec. 5.14. Signature Authority.[123]
Sec. 5.14.1. Only the Board of Directors may execute contracts or other written legal agreements that obligate RMA to disburse funds for the receipt of goods and/or services

Sec. 6. Authorized Procurement Methods.
RMA directors and employees shall procure goods and services as set forth in this Sec. 6.

Sec. 6.1. Purchases with Local Funds.[124]
Sec. 6.1.1. No Method Required. RMA directors and employees may procure goods and services valued at less than the acquisition threshold through the most expedient manner available.

Sec. 6.2. Purchases with State Funds.[125]
Sec. 6.2.1. No Method Required. RMA directors and employees may procure goods and services valued at less than the acquisition threshold through the most expedient manner available.

Sec. 6.4. Purchases Through Cooperative.[126]
Sec. 6.4.1 General. RMA directors and employees may use local, state or federal funds to procure goods or services through a cooperative that provides written assurance of compliance with purchasing law.

Sec. 6.4.3. Exception. In the event that a participating vendor in the purchasing cooperative program quotes a lower price for the same goods or services, RMA directors and employees may procure the goods and services using the vendor's direct quote.

Sec. 7. Purchase of Professional Services.[127]
Sec. 7.1. Selection of Provider**.**
Sec. 7.1.1. The Board and Delegate or designee should not select a provider of professional services or a group or association of providers or award a contract for professional services on the basis of competitive bids submitted for the contract or for the professional services.

Sec. 7.1.2. The Board and Delegate or designee may select the provider for the professional service to be procured based on the following criteria:

(a) The provider's demonstrated competence and qualifications to perform the services; and
(b) The fairness and reasonableness of the provider's price.

Sec. 7.2. Contract for Professional Services of Architect, Engineer or Surveyor.

Sec. 7.2.1. In procuring architectural, engineering, or land surveying services, the Board and Delegate or designee should:

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123 *Ibid*.
124 Tex. Ed. Code §12.115(a)(2)
125 Tex. Ed. Code §§ 12.1053 and 12.115(a)(2); FASRG
126 Tex. Ed. Code §§ 12.1058(a)(1) and 12.115(a)(2); FASRG; 2 CFR §200.318(e)
127 Tex. Ed. Code §12.1053(b)(2); Tex. Gov't. Code Chapter 2254, Subchapter A

(a) Select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and
(b) Then attempt to negotiate with that provider a contract at a fair and reasonable price.

Sec. 7.2.2. If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the Board and Delegate or designee shall:

(a) End negotiations with that provider;
(b) Select the next most highly qualified provider;
(c) Attempt to negotiate a contract with that provider at a fair and reasonable price; and
(d) Continue the process described in subsections (a) through (c) to select and negotiate with providers until a contract is entered into.

Sec. 8. Procurement of Public Works.
Public Works Contracts – Chapter 44 of the Education Code

SECTION 8.1. Applicable Law. In awarding contracts that will involve the construction, repair, or renovation of a structure, road, highway, or other improvement or addition to real property ("construction services"), RMA will comply with Chapter 44, Subchapter B, of the Education Code. Pursuant to Chapter 44, Subchapter B, of the Education Code, RMA shall select a method pursuant to Chapter 2269 of the Texas Government Code for construction services.

SECTION 8.2. Bidding Threshold. This policy applies when an expenditure of more than $50,000.00 in public funds is required for construction services.

SECTION 8.3. Delegation of Authority. The Board of Directors may/may not delegate any or all of its authority under this Policy to the Superintendent. The act of delegating authority itself shall be accomplished through an act of the Board of Directors at a lawfully held meeting in compliance with the Texas Open Meetings Act. Upon delegation of such authority, the Superintendent shall have and may exercise the power and authority of the Board of Directors pursuant to this Policy.

(a) If the Board of Directors has delegated any of its authority under this Policy, the Superintendent shall ensure that any request for bids (RFB), proposals (RFP), or qualifications (RFQ) issued by RMA, shall provide notice of the delegation, the limits of such delegation, and include the name and title of each person to whom authority has been delegated. If the Superintendent fails to include such notice, any action taken under this Policy by the Superintendent must be ratified by the Board through formal action at a meeting held in compliance with the Texas Open Meetings Act.

SECTION 8.4. Selection of Construction Methodology. For each expenditure of more than $50,000.00 for construction services, the Board of Directors shall determine the procurement method that provides the best value to RMA in accordance with applicable law. The procurement methods available to RMA are as follows:

(a) Competitive Bidding;
(b) Competitive Sealed Proposals;
(c) Construction Manager-Agent;
(d) Construction Manager-at-Risk;

(e) Design-Build Contract; and
(f) Job Order Contracts.

SECTION 8.5. Use of Architect or Engineer; Use of Other Professional Services. The selection or designation of any architect or engineer, or the procurement of construction materials, engineering services, testing and inspection services, or verification testing services shall be made on the basis of demonstrated competence and qualifications in accordance with Section 3 of this Policy.

SECTION 8.6. Sealed Bids. The Superintendent shall ensure that all bids, proposals or qualifications are sealed.

SECTION 8.7. Contract Award. In determining the award, regardless of the procurement method selected, the Board must consider any existing laws, including any criteria, related to historically underutilized businesses and/or existing laws or criteria related to the use of women, minority, small or disadvantaged businesses. The Board may take into account several factors, including:

(a) Price;
(b) Experience and Reputation;
(c) Quality of Goods and Services;
(d) Impact on the ability of RMA to comply with rules relating to historically underutilized businesses;
(e) Safety Record;
(f) Proposed Personnel;
(g) Financial capability appropriate to the size and scope of the project; and
(h) Any other relevant factor provided it is specifically listed in the RFB, RFP, or RFQ.

The Board shall make its selection based on the applicable criteria for the procurement method and document the basis for its selection. The Superintendent shall ensure that the evaluations are made public not later than the seventh (7th) day after the date any contract is awarded.

SECTION 8.8. Advertisement/Notice of Procurement Request and Notice. The Superintendent shall ensure compliance with any advertisement or notice required by Chapter 2269, Texas Government Code upon the issuance of a request for proposal, bid or qualifications, and that any such notice contains the following:

(A) The time by when and the place where the bids, proposals, or responses will be received and opened; and
(b) The criteria for the particular procurement method that will be used to evaluate the bids, proposals or responses.

PG-5.520: CRIMINAL HISTORY CHECKS FOR CONTRACTED SERVICES

Sec. 1. Definitions

“Continuing duties related to contracted services” are work duties that are performed pursuant to a contract to provide services to RMA on a regular, repeated basis rather than infrequently or one-time only.

A “covered contract employee” is an individual who:

1. Is employed or offered employment by a service contractor or a subcontractor of a service contractor, is an individual independent contractor of RMA, or is an individual subcontractor of a service contractor;
2. Has or will have continuing duties related to the contracted services;
3. Has or will have direct contact with students; and
4. Is not a student of (or enrolled in) RMA.

“Direct contact with students” is the contact that results from activities that provide substantial opportunity for verbal or physical interaction with students that is not supervised by a certified educator or other professional RMA employee. Contact with students that results from services that do not provide substantial opportunity for unsupervised interaction with a student or students, such as addressing an assembly, officiating a sports contest, or judging an extracurricular event, is not, by itself, direct contact with students. However, direct contact with students does result from any activity that provides substantial opportunity for unsupervised contact with students, which might include, without limitation, the provision of coaching, tutoring, or other services to students.

“Public works contractor” means an entity that contracts directly with or subcontracts with an entity that contracts with RMA to provide services to RMA.

A “contracting entity” is an entity that contracts directly with RMA to provide services to RMA. However, when conducting an investigation or intervention regarding an alleged crime or act of child abuse on a school campus, a law enforcement agency or the Department of Family and Protective Services is not a contracting entity, and the investigator or intervener is not a covered contract employee.

A “subcontracting entity” is an entity that contracts with another entity that is not RMA to provide services to RMA or shared services arrangement.

A “qualified school contractor” is an entity that:

1. Contracts or subcontracts to provide services to RMA; and
2. Is determined eligible by the Department of Public Safety (“DPS”) to obtain criminal history record information under the National Child Protection Act of 1993, 34 U.S.C. 40101 *et seq*., for an employee, applicant for employment, or volunteer of the qualified school contractor.

Education Code 22.0834; *19 TAC 153.1101(2)-(3), (7), (10)*.

Sec 2. National Criminal History Record Information (“NCHRI”) Review

Sec 2.1 Contractors with Continuing Duties and Direct Contact with Students

The requirements of this policy apply to a person who is not an applicant for or holder of a certificate under Subchapter B, Chapter 21, Education Code and who is offered employment by an entity or a subcontractor of an entity that contracts with RMA if:

1. The employee or applicant or will have has continuing duties related to the contracted services; and
2. The employee or applicant has or will have direct contact with students.

Education Code 22.0834(a).

If a contracting or subcontracting entity determines that these criteria do not apply to an employee, the entity shall make a reasonable effort to ensure that the conditions or precautions that resulted in that determination continue to exist throughout the time that the contracted services are provided. *Education Code 22.0834(l)*.

Sec 2.2 Exception: Public Works Contractors

The requirements of this policy do not apply to an employee or applicant of a public works contractor if:

1. The public work does not involve the construction, alteration, or repair of an instructional facility as defined by Education Code 46.001;
2. For public work that involves construction of a new instructional facility, the person's duties related to the contracted services will be completed not later than the seventh day before the first date the facility will be used for instructional purposes; or
3. For a public work that involves an existing instructional facility:
    a. The public work area contains sanitary facilities and is separated from all areas used by students by a secure barrier fence that is not less than six feet in height; and
    b. The contracting entity adopts a policy prohibiting employees, including subcontracting entity employees, from interacting with students or entering areas used by students, informs employees of the policy, and enforces the policy at the public work area.

Education Code 22.0834(a-1).

Sec 2.3 Qualified School Contractors

If the contracting entity is a qualified school contractor, a person must submit to a NCHRI review by the qualified school contractor before being employed or serving in a capacity described above. *Education Code 22.0834(b)*.

A qualified school contractor acting as a contracting entity shall require that any of its subcontracting entities obtain all criminal history record information ("CHRI") that relates to an employee if the subcontracting entity is also a qualified school contractor. *Education Code 22.0832(d-1)*.

RMA or a qualified school contractor may obtain from any law enforcement or criminal justice agency all CHRI that relates to a person. *Education Code 22.0834(h)*.

A qualified school contractor shall certify to RMA that the entity has received all CHRI relating to a person who is employed by or under a current offer of employment by the qualified school contractor. *Education Code 22.0834(q)*.

A qualified school contractor shall require that any of its subcontracting entities that are not qualified school contractors comply with the requirements of "Other Contractors," below. *Education Code 22.0834(d-2)*.

Sec 2.4 Other Contractors

If the contracting entity or subcontracting entity is not a qualified school contractor, a person must submit to a NCHRI review by RMA. *Education Code 22.0834(b-1)*.

The requirements for qualified school contractors and subcontracting entities described above do not apply to a qualified school contractor if RMA obtains the CHRI of a person through the criminal history clearinghouse. *Education Code 22.0834(e)*.

Sec 2.5 DPS Criminal History Clearinghouse

Before or immediately after employing or securing the services of a person, the qualified school contractor or RMA shall send or ensure that the person sends to DPS information that is required by DPS for obtaining NCHRI, which may include fingerprints and photographs. DPS shall obtain the person's NCHRI and report the results through the criminal history clearinghouse as provided by Government Code 411.0845. *Education Code 22.0834(c)*.

A qualified school contractor or RMA shall obtain all CHRI that relates to a person through the criminal history clearinghouse. *Education Code 22.0834(d)*.

Sec 2.6 Disqualifying Conviction

RMA, a qualified school contractor, a contracting entity, or a subcontracting entity may not permit a person to provide services at a school if the employee has been convicted of a felony misdemeanor offense that would prevent a person from being employed under Education Code 22.085(a). *Education Code 22.0834(o)*.

Additionally, RMA may not allow a person who is an employee of or applicant for employment by a qualified school contractor or an entity that contracts with RMA to serve at the school if RMA obtains information showing a disqualifying conviction through a CHRI review concerning the employee or applicant. RMA must ensure that an entity that it contracts with for services has obtained all required CHRI. *Education Code 22.085(c)*.

Sec 2.7 Emergencies

In the event of an emergency due to a health or safety concern, a reasonably unforeseen situation, or other exigent circumstances, the RMA employee who is in charge of the facility shall be authorized to determine whether an employee of a contracting or subcontracting entity who does not have the required CHRI review or who has a disqualifying conviction will be permitted to enter a RMA facility. If allowed to enter the facility, the employee of the contracting or subcontracting entity shall be accompanied by a RMA employee at all times. *Education Code 22.0834(f)*.

Sec 3 Contractors Providing Transportation Services

Sec 3.1 Access to CHRI in General

Except as provided in Section 3.2 below, if RMA contracts with a person for transportation services, RMA shall obtain from any law enforcement or criminal justice agency all CHRI relating to a person employed by the person as a bus driver or a person the person intends to employ as a bus driver.

Except as otherwise provided in this Section, a person or management company that contracts with RMA to provide transportation services shall submit to RMA the name and other identification data required to obtain criminal history record information of each person described by this section.

If RMA obtains information that such a person has been convicted of a felony or a misdemeanor involving moral turpitude, RMA shall inform the chief personnel officer of the person or management company with whom RMA has contracted, and the person or management company may not employ that person to drive a bus on which students are transported without the permission of the Board.

Education Code 22.084(a)–(b); *19 TAC 100.1153(d)*.

Sec 3.2 Commercial Transportation Company

If RMA contracts with a commercial transportation company for transportation services, the company may obtain from any law enforcement or criminal justice agency all CHRI that relates to a person employed by the company as a bus driver, bus monitor, or bus aide, or a person the company intends to employ in one of those positions. If the company obtains criminal history record information indicating that a person it employs or intends to employ has been convicted of a felony or a misdemeanor involving moral turpitude, the company may not, without the permission of the Board, employ that person to drive or serve as a bus monitor or bus aide on a bus on which students are transported. If the commercial transportation company obtains the CHRI, RMA is not required to do the same. *Education Code 22.084(c)-(d)*; *19 TAC 100.1153(d)*.

Sec 4 Additional Authority to Access to CHRI

RMA or an entity that contacts to provide services to RMA is entitled to obtain CHRI that RMA or entity is required or authorized to obtain under Subchapter C, Chapter 22, Education Code that relates to a person who is:

1. An applicant for employment by RMA;
2. An employee of or an applicant for employment with a public or commercial transportation company that contracts with RMA to provide transportation services if the employee drives or the applicant will drive a bus in which students are transported or is employed or is seeking employment as a bus monitor or bus aide on a bus in which students are transported;
3. An employee of or applicant for employment by an entity that contracts to provide services to RMA as provided by Education Code 22.0834;
4. Aan employee of or applicant for employment by a subcontractor of an entity that contracts to provide services to RMA as provided by Education Code 22.0834; or
5. A tutor who provides services on behalf of a service provider that offers accelerated or supplemental instruction under Section 28.0211, Education Code.

Gov't Code 411.097(a).

Sec. 5 Permissive Criminal History Checks

RMA may obtain from any law enforcement or criminal justice agency, including DPS, all CHRI that relates to an employee of or an applicant for employment by a management company or other person that contracts with RMA to provide management services or other services, if:

1. The employee has or will have continuing duties related to the contracted services; and
2. The duties are or will be performed on school property or at another location where students are regularly present.

19 TAC 100.1153(e)(3).

Sec. 6 Disclosure Prohibited

Information collected about a person to comply with this policy, including the person's name, address, phone number, social security number, driver's license number, other identification number, and fingerprint records:

1. May not be released except:
    a. To comply with Subchapter C, Chapter 22, Education Code;
    b. In compliance with 19 TAC 100.1153(h);
    c. By court order; or
    d. With the consent of the person who is the subject of the information;
2. Is not subject to disclosure as provided by the Texas Public Information Act, Chapter 552, Government Code; and
3. Shall be destroyed by the requestor or any subsequent holder of the information not later than the first anniversary of the date the information is received.

Education Code 22.08391; 19 TAC 100.1153(h).

PG-5.910: Internal Audits

Sec. 1. Purpose of Policy.
Through this policy, the Board of Directors (hereafter, the "Board") of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RICHARD MILBURN ACADEMY (hereafter, the "Richard Milburn Academy") shall address the legal requirements, as applicable, promulgated at:

(a) Texas Business Organizations Code ("Tex. Bus. Org. Code") Sections 3.101, 22.201, 22.221 and 22.235;
(b) Texas Education Code ("Tex. Ed. Code") Sections 12.115(a)(2) and 12.121; and
(c) Texas Administrative Code, Title 19 ("19 TAC"), Sections 100.1113

Additionally, through this policy, the Board shall address best practices adopted by RMA

Sec. 2. Authority Over Fiscal Matters.

Sec. 2.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution.

Sec. 2.2. The Delegate shall report to the Board any business arrangement or transaction with an individual that is an officer and any conflicted,[128] interested[129] or related[130] party, as defined in other Board policy or applicable law. RMA and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 3. Purpose.
Under this policy, internal audits may be established to provide independent and objective assurance and consulting services to improve the management of organizational risks and the effectiveness of internal controls.

Sec. 4. Oversight.
The Board shall have final authority over internal audits.

Sec 6. Standards.
The Board shall require that internal audits conduct its work pursuant to the International Standards for the Professional Practice of Internal Auditing and other applicable professional auditing standards

[128] Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135
[129] 19 TAC § 100.1047(f)
[130] Tex. Ed. Code § 12.1166

Sec. 7. Access to Personnel, Property, and Records.
RMA officers and employees should provide any internal audits with access to all personnel, property, and records. If an RMA officer or other employee fails to provide internal audits said access, internal audits shall report the employee's failure to provide access to the Board.

Sec. 8. Recommendations.
The Delegate or other officers may recommend or submit a request to the Board for an internal audit to conduct an inquiry to address perceived or known concerns or issues.

Sec. 9. Prohibited Conduct.
RMA officers and employees, without exception, are prohibited from demanding or otherwise directing the work undertaken by internal audits, including the content of any report or other deliverable prepared by internal audits.

Sec. 14. Administrative Support.
The Delegate or designee should provide administrative support to internal audits including, but not limited to:

(a) an adequate, equipped, furnished, and secure office; and
(b) accounting, information technology, payroll, purchasing, travel, and other essential administrative services; and
(c) human resource administration.

Sec. 15. Training and Updates.[131]
The Delegate or designee shall keep directors and employees informed of any changes to this policy and related requirements.

Sec. 16. Administrative Procedures.[132]
The Delegate may implement procedures as reasonably necessary to properly administer this policy and to adhere to applicable law and rule. In doing so, the Delegate shall not adopt, and is prohibited from adopting, an administrative procedure that conflicts with applicable law or this policy. Accordingly, the Delegate shall confer with the Board or legal counsel before deviating from the requirements set forth in this policy. In the event that a deviation from this policy becomes necessary, the Delegate shall either recommend an amendment to this policy or the Board's approval of a specific deviation, including the purpose, scope and duration of the requested deviation.

Sec 18. Retention.[133]
This policy shall be retained until superseded, expired, or discontinued thereafter.

TPCSA Model Board Policy Series

Module 6 – Special Education

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www.rmaschools.org

Adopted by Board of Directors
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PG-6.1 NONDISCRIMINATION

Sec. 1. NONDISCRIMINATION POLICY

No qualified student with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any service, program, or activity provided or offered by Richard Milburn Academy.

42 U.S.C. § 12132; 29 U.S.C. § 794(a); 34 C.F.R. § 104.4(a).

Sec. 2. FREE APPROPRIATE PUBLIC EDUCATION

Eligible students with disabilities shall enjoy the right to a free appropriate public education ("FAPE"), which may include instruction in the regular classroom, instruction through special teaching, or instruction through approved contracts. Instruction shall be supplemented by the provision of related services when appropriate. Tex. Educ. Code § 29.003(a).

FAPE means special education and related services that:

1. Have been provided at public expense, under public supervision and direction, and without charge;
2. Meet standards set out by Texas Education Agency ("TEA");
3. Include an appropriate preschool, elementary school, or secondary school education; and
4. Are provided in conformity with the student's individualized education program (IEP).

20 U.S.C. § 1401(9); 34 C.F.R. § 300.13, 300.17, 300.36.

Sec. 3. LEAST RESTRICTIVE ENVIRONMENT

Richard Milburn Academy shall ensure that, to the maximum extent possible, children with disabilities shall be educated with children who are not disabled. Special classes, special schooling, or other removal of children with disabilities from the regular educational environment shall occur only when the nature or severity of the child's disability is such that education in regular classes with the use of supplementary aids and services cannot be satisfactorily achieved.

20 U.S.C. § 1412(a)(5); 34 C.F.R. § 300.114(a)(2).

Sec. 4 DISCIPLINE

All disciplinary actions regarding students with disabilities shall be determined in accordance with applicable federal regulations, Education Code Chapter 37 (as applicable), and 19 Administrative Code 89.1053.

19 TAC 89.1050(a)(4).

Sec. 5 INSTRUCTIONAL ARRANGEMENTS AND SETTINGS

Instructional arrangements and settings shall be based on the individual needs and IEPs of eligible students receiving special education services. Instructional arrangements and settings include:

1. Mainstream: special education and related services provided to a student in the general education classroom in accordance with the student's IEP. Qualified special education personnel must be involved in the implementation of the student's IEP through the provision of direct, indirect, and/or support services to the student and/or the student's

general education classroom teacher(s) necessary to enrich the general education classroom and enable student success. The student's IEP must specify the services that will be provided by qualified special education personnel to enable the student to appropriately progress in the general education curriculum and/or appropriately advance in achieving the goals set out in the student's IEP. Examples of services provided in this instructional arrangement include, but are not limited to, direct instruction, helping teacher, team teaching, co-teaching, interpreter, educational aides, curricular or instructional modifications/accommodations, special materials/equipment, positive classroom behavioral interventions and supports, consultation with the student and his/her general education classroom teacher(s) regarding the student's progress in general education classes, staff development, and reduction of ratio of students to instructional staff. Monitoring student progress in and of itself is not a special education service; this cannot be listed as the only specially designed instruction documented in a student's IEP.

2. Homebound: also referred to as home-based instruction, is for providing special education and related services who are served at their home for the following reasons:
   A. Medical reasons. Homebound instruction is used for a student whose Admission, Review & Dismissal ("ARD") committee has received medical documentation from a physician licensed to practice in the United States that the student is expected to incur full-day absences from school for a minimum of four weeks for medical reasons, which could include psychological disorders, and the ARD committee has determined that this is the most appropriate placement for the student. The weeks do not have to be consecutive. For the ARD committee to approve this placement, the committee will review documentation related to anticipated periods of student confinement to the home, as well as whether the student is determined to be chronically ill or any other unique medical circumstances that would require this placement in order to provide FAPE to the student. Documentation by a physician does not guarantee the placement of a student in this instructional arrangement/setting, as the student's ARD committee shall determine whether the placement is necessary for the provision of FAPE, and, if so, will determine the amount of services to be provided to the student at home in this instructional arrangement/setting in accordance with federal and state laws, rules, and regulations, including the provisions specified in 19 TAC 89.1.005(c);
   B. Children ages through five years of age. Home-based instruction may be used for children ages three through five when determined appropriate by the child's ARD committee and as documented in the student's IEP. While this setting would generate the same weight as the homebound instructional arrangement/setting, the data on this setting may be collected differently than the medical homebound arrangement/setting;
   C. Students confined to or educated in hospitals. This instructional arrangement/setting also applies as described in TEC § 29.014l
3. Hospital class: services provided in a classroom, hospital facility, or residential care and treatment facility not operated by <<School Name>> as set forth in 19 TAC 89.1055(e)(3);
4. Speech therapy: speech therapy services provided, whether in a general education classroom or setting other than a general education classroom.
   A. When the only special education service provided to a student is speech therapy, then this instructional arrangement may not be combined with any other instructional

arrangement. If a student's IEP indicates that a special education teacher is involved in the implementation of the student's IEP but there is no indication of how that teacher provides a special education service, the student is in the speech therapy instructional arrangement/setting;

B. When a student receives speech therapy and a related service but no other special education service, the student is in the speech therapy instructional arrangement/setting;

5. Resource room/services: This instructional arrangement/setting is for providing special education and related services to a student in a setting other than general education for less than 50% of the regular school day. For funding purposes, this will be differentiated between the provision of special education and related services to a student in a setting other than general education for less than 21% of the instructional day and special education and related services provided to a student in a setting other than general education for at least 21% of the instructional day but less than 50% of the instructional day;
6. Self-contained (mild, moderate, or severe) regular campus: This instructional arrangement/setting is for providing special education and related services to a student who is in a setting other than general education for 50% or more of the regular school day on a regular school campus. For funding purposes, mild/moderate will be considered at least 50% but no more than 60% of the student's instructional day, and severe will be considered more than 60% of the student's instructional day;
7. Off-home campus: This instructional arrangement/setting is for providing special education and related services as set forth in 19 TAC 89.1055(e)(6);
8. Nonpublic day school: services provided through a contractual agreement with a nonpublic school;
9. Vocational adjustment class/program: Although referred to as a class, this instructional arrangement/setting is a support program for providing special education and related services to a student who is placed on a job (paid or unpaid unless otherwise prohibited by law) with regularly scheduled direct involvement by special education personnel in the implementation of the student's IEP. This instructional arrangement/setting shall be used in conjunction with the student's transition plan, as documented in the student's IEP, and may include special education services received in career and technical education work-based learning programs;
10. Residential care and treatment facility (not <<School Name>> resident): services provided at a facility at which a student with a disability currently resides, who was not placed at the facility by the student's ARD committee, and whose parent or guardian does not reside in the district providing educational services to the student. This instructional arrangement/setting is for providing special education and related services to a student on a Legacy Traditional Schools Education Foundation campus who resides in a residential care and treatment facility and whose parents do not reside within the boundaries of the school district that is providing educational services to the student. If the instruction is provided at the facility, rather than on a school district campus, the instructional arrangement is considered to be the hospital class arrangement/setting rather than this instructional arrangement, or if the student resides at a state-supported living center, the instructional arrangement will be considered the state school arrangement/setting. Students with disabilities who reside in these facilities may be included in the average daily attendance of the district in the same way as all other

students receiving special education;

11. State supported living center: services provided to a student who resides at a state supported living center when the services are provided at the state supported living center location; or
12. Other program options, including contracts with other districts and programs approved by TEA.

19 TAC 89.1005.

Sec. 6 RELATED SERVICES

"Related services" means transportation, and such developmental, corrective, and other supportive services as may be required to assist a child with a disability to benefit from special education, including the early identification and assessment of disabling conditions in children.

The term includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to receive a FAPE as described in the child's IEP, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that medical services shall be for diagnostic and evaluation purposes only.

The term does not include a medical device that is surgically implanted, the optimization of the device's functioning, or the replacement of such device. 20 U.S.C. § 1401(26); 34 C.F.R. § 300.34.

PG-6.2 ADMINISTRATION

Sec. 1. APPLICABILITY OF TEXAS EDUCATION CODE

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Tex. Educ. Code, or a rule adopted under Title 2 (Public Education) of the Tex. Educ. Code relating to special education programs. (TEX. EDUC. CODE § 12.104(b)(2)(F)).

Richard Milburn Academy shall comply with the requirements for monitoring compliance with federal and state laws relating to special education pursuant to Tex. Educ. Code § 29.010.

Sec. 2. ASSURANCE

Open-enrollment charter schools must submit a plan to the Texas Education Agency that provides assurances that the charter school has in effect policies, procedures and programs that are consistent with the State and Federal policies and procedures governing special education. (20 U.S.C. §1413(a); 34 C.F.R. §§ 300.200-.201)

Sec. 3. PUBLIC EDUCATION INFORMATION MANAGEMENT SYSTEM (PEIMS)

"Most of the data TEA requests from school districts and charter schools are gathered using the Public Education Information Management System ("PEIMS"). PEIMS data are used for the Academic Excellence Indicator System ("AEIS"), Foundation School Program ("FSP"), statistical purposes, federal reporting, legislative requests, and audit purposes. Through PEIMS, schools report data including student demographic and academic performance, student attendance, personnel information, financial data, and organizational information." *Texas Open-Enrollment Charter School Handbook, p. 46* (TEA, Division of

Charter School Administration, September 2011).

Sec. 4. APPLICABILITY OF TITLE RELATING TO THE PEIMS

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Tex. Educ. Code, or a rule adopted under Title 2 (Public Education) of the Tex. Educ. Code, relating to the PEIMS to the extent necessary to monitor compliance with Subchapter D (Open-Enrollment Charter School), Chapter 12, Tex. Educ. Code. (TEX. EDUC. CODE §12.104(b)(2)(A)).

The Superintendent or designee shall prepare required PEIMS submissions in accordance with PEIMS Data Standards and Module 10 of the Financial Accountability System Resource Guide. The Superintendent or designee may collaborate with the regional education service center in preparing and timely submitting PEIMS reports.

Sec. 5. CONTRACTS FOR SERVICES; RESIDENTIAL PLACEMENT

Richard Milburn Academy may contract with a public or private facility, institution, or agency inside or outside of this State for the provision of services to students with disabilities. Each contract for residential placement must be approved by the Commissioner. The Commissioner may approve a residential placement contract only after at least a programmatic evaluation of personnel qualifications, adequacy of physical plant and equipment, and curriculum content. The Commissioner may approve either the whole or a part of a facility or program. (TEX. EDUC. CODE §29.008(a)).

When a student, including one for whom the State is managing conservator, is placed primarily for care or treatment reasons in a private residential facility that operates its own private education program, none of the costs may be paid from public education funds. If a residential placement primarily for care or treatment reasons involves a private residential facility in which the education program is provided by the open-enrollment charter school, the portion of the costs that includes appropriate education services, as determined by the admission, review, and dismissal ("ARD") committee, shall be paid from State and Federal education funds. (TEX. EDUC. CODE § 29.008(c)).

If Richard Milburn Academy contracts for the provision of education services rather than providing the services, Richard Milburn Academy shall oversee the implementation of the student's individualized education program ("IEP") and shall annually reevaluate the appropriateness of the arrangement. An approved facility, institution, or agency with whom Richard Milburn Academy contracts shall periodically report to Richard Milburn Academy on the services the student has received or will receive in accordance with the contract as well as diagnostic or other evaluative information that Richard Milburn Academy requires in order to fulfill its obligations under Subchapter A (Special Education), Chapter 29, Tex. Educ. Code. (TEX. EDUC. CODE § 29.008(d)).

Sec. 6. FACILITIES

Any construction of new facilities or alteration of existing facilities with authorized Individuals with Disabilities Education Act ("IDEA") program funds must comply with the requirements of:

- Appendix A of Part 36 of Title 28, Code of Federal Regulations (commonly known as the *Americans with Disabilities Accessibility Guidelines for Buildings and Facilities*);and
- Appendix A of Subpart 101-19.6 of Title 41, Code of Federal Regulations (commonly known as the *Uniform Federal Accessibility Standards*).

Sec. 7. ADMINISTRATION OF EQUIPMENT

The ARD committee must consider whether the student needs assistive technology devices ("ATDs") as part of the student's special education, related services, or supplementary aids and services. On a case-by-case basis, the use of school-purchased ATDs in the student's home or in other settings is required if the student's ARD committee determines that the student needs access to those devices in order to receive free appropriate public education. (34 C.F.R. §§ 300.105; 300.324(a)(2)(v); 20 U.S.C. § 1414(d)(3)(B)(v)).

Assistive technology means any device or equipment used to improve or maintain the function capabilities of a student with a disability. Assistive technology does not include a medical device that is surgically implanted. (34 C.F.R. §§ 300.5-300.6).

Richard Milburn Academy may transfer an ATD in accordance with TEX. EDUC. CODE, § 30.0015. The transfer agreement must include the standards in TEX. EDUC. CODE § 30.0015, including the following:

1) The transferor and transferee must represent and agree that the terms of the transfer are based on the fair market value of the ATD, determined in accordance with generally accepted accounting principles.
2) The informed consent of the parent of the student with a disability, or the adult student, for whom the ATD is being transferred must be obtained before the transfer of an ATD pursuant to TEX. EDUC. CODE § 30.0015. The procedures employed by Richard Milburn Academy in obtaining informed consent shall be consistent with the procedures employed by the school to obtain parental consent under 34 C.F.R. § 300.300. Consistent with 34 C.F.R., § 300.505(c), informed parental or adult student consent need not be obtained if the school can demonstrate that it has taken reasonable measures to obtain that consent, and the student's parent or the adult student has failed to respond. To meet the reasonable measures requirement, the school must use procedures consistent with those described in 34 C.F.R. §3 00.322(d).
3) If the transfer is a sale, then the sale of the ATD shall be evidenced by a "Uniform Transfer Agreement" which includes the following:
    a. the names of the transferor and the transferee (which may be any individual or entity identified in TEX. EDUC. CODE, § 30.0015(b));
    b. the date of the transfer;
    c. a description of the ATD being transferred;
    d. the terms of the transfer (including the transfer of warranties, to the extent applicable); and
    e. the signatures of authorized representatives of both transferor and transferee. (19

TEX. ADMIN. CODE § 89.1056).

Sec. 8. SPECIAL EDUCATION TEACHER DEFINED

When used with respect to any public elementary school or secondary school special education teacher teaching in a State, such term means that—the teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State's public charter school law.

Sec. 9. COMPLIANCE WITH FEDERAL AND STATE PERSONNEL STANDARDS FOR INDIVIDUALS SERVING CHILDREN WITH DISABILITIES

Richard Milburn Academy shall ensure that personnel standards for all individuals serving children with disabilities are met in accordance with the IDEA and its procedures.

Richard Milburn Academy recognizes that both the Every Student Succeeds Act "ESSA" and the IDEA provide that charter school teachers must meet the requirements set forth in the State's public charter school law. 20 U.S.C. §§ 6311(g)(2)(J); 20 U.S.C. § 1401(10)(B)(i). In Texas, that means that the charter school special education teacher must be certified.

Richard Milburn Academy shall make an ongoing good-faith effort to recruit and hire appropriately and adequately certified and/or licensed personnel to provide a wide range of special education and related services to students with disabilities who are eligible for special education services. Special education staffing needs come from the individualized decisions made by the ARD committee.

Richard Milburn Academy shall ensure that all personnel necessary to carry out the requirements of the IDEA are appropriately and adequately certified and/or licensed, prepared and assigned.

Richard Milburn Academy adopts as policy the provisions under State and Federal law concerning personnel, including:

Charter school teachers must only meet the requirements of the State's public charter school law, which differ from the requirements for Texas teacher certification. In Texas, State law does not require a teacher employed by an open-enrollment charter school to be certified unless the teacher is assigned to teach in special education or bilingual education programs, in which case the appropriate State certification is required. The minimum qualification under State law for a teacher at an open-enrollment charter school, other than a special education or bilingual education teacher, is a bachelor's degree. However, the governing body of Richard Milburn Academy may set the qualifications for teachers at a standard above what State lawrequires. The open-enrollment charter school shall not employ a person as a teacher unless that person holds a bachelor's degree. (TEX. EDUC. CODE § 12.129(a)).

In an open-enrollment charter school that serves youth referred to or placed in a residential trade center by a local or state agency, a person may be employed as a teacher for a noncore vocational course without holding a baccalaureate degree if the person has demonstrated subject matter expertise related to the subject taught, such as professional work experience, formal training and education, holdinga relevant active professional industry license, certification, or registration, or any combination of work experience, training and education, and industry license, certification, or registration, and received at least 20 hours of classroom management training as determined by the governing body of the open-enrollment charter school. (TEX. EDUC. CODE §12.129(b)).

All special education and related service personnel shall be certified, endorsed, or licensed in the area or areas of assignment in accordance with 34 C.F.R. § 300.156; TEX. EDUC. CODE

§§ 21.002, 21.003, and 29.304; or appropriate state agency credentials. (19 TEX. ADMIN. CODE § 89.1131(a)).

Sec. 10. NOTICE TO PARENTS – QUALIFICATIONS

The Superintendent or designee shall provide to the parent or guardian of each student enrolledin Richard Milburn Academy written notice of the qualifications of each teacher employed by Richard Milburn Academy. *Education Code 12.130*.

In the event Richard Milburn Academy receives assistance under Title I, Part A of the Elementary and Secondary Education Act ("ESEA"), Richard Milburn Academy shall, at the beginning of each school year, notify the parents of each student attending a school receiving such funds that the parents may request, and Richard Milburn Academy shall provide the parents on request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, the following:

1. Whether the teacher has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.
2. Whether the teacher is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived.
3. Whether the teacher is teaching in the field of discipline of the certification of theteacher.
4. Whether the student is provided services by paraprofessionals and, if so, their qualifications.

20 U.S.C. 6312(e)(1)(A).

Additionally, in the event Richard Milburn Academy receives assistance under Title I, Part A of the ESEA, Richard Milburn Academy shall also provide timely notice to each individual parent or adult student that the student has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable state certification standards or licensure requirements at the grade level and subject area in which the teacher has been assigned. *20 U.S.C. 6312(e)(1)(B)(ii)*.

PG-6.3 ADMISSION, REVIEW AND DISMISSAL COMMITTEE

Sec. 1. ADMISSION, REVIEW AND DISMISSAL COMMITTEES

Richard Milburn Academy shall establish an admission, review and dismissal ("ARD") committee for each eligible student with a disability and for each student for whom a full and individual initial evaluation is conducted. The ARD committee shall be the individualized education program ("IEP") team defined at 34 C.F.R. § 300.321.

Sec. 2. ARD COMMITTEE RESPONSIBILITIES

The ARD committee and Richard Milburn Academy are responsible for:

1. Evaluating, reevaluating, and determining eligibility for special education and related services;
2. Placement of students with disabilities, including disciplinary changes in placement;
3. Development of student IEPs;
4. Development and implementation of service plans for students who have been placed by their parents in private schools and who have been designated to receive special education and related services;
5. Compliance with the least restrictive environment standard;
6. Compliance with state requirements for reading diagnosis and state assessments;
7. Development of personal graduation plans;
8. Development of accelerated instruction under TEX. EDUC. CODE § 28.0211 and intensive programs of instruction under TEX. EDUC. CODE § 28.0213;

9. Evaluation, placement, and coordination of services for students who are deaf, hard of hearing, blind, or visually impaired; and
10. Determining eligibility for extracurricular activities, under TEX. EDUC. CODE §33.081.

19 TEX. ADMIN. CODE. § 89.1050(a); 34 C.F.R. §§ 300.116(a), 300.321(a)*; 19 TAC 89.1050(a).*

Sec. 3. COMMITTEE MEMBERS

Richard Milburn Academy shall ensure that each ARD committee meeting includes all of the following:

1. the parents, as defined by 34 CFR 300.30, of the student;
2. not less than one general education teacher of the student (if the student is, or may be, participating in the general education environment) who must, to the extent practicable, be a teacher who is responsible for implementing a portion of the student's IEP;
3. not less than one special education teacher of the student, or where appropriate, not less than one special education provider of the student. This person must be appropriately certified or licensed as required by 34 CFR 300.156.
4. a representative of the Richard Milburn Academy who:
   a. is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities;
   b. is knowledgeable about the general education curriculum; and
   c. is knowledgeable about the availability of resources of the Richard Milburn Academy;
5. an individual who can interpret the instructional implications of evaluation results;
6. at the discretion of the parent or the Richard Milburn Academy , other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate;
7. whenever appropriate, the student with a disability;
8. to the extent appropriate, with the consent of the parents or a student who has reached the age of majority, a representative of any participating agency that is likely to be responsible for providing or paying for transition services;
9. a representative from career and technical education ("CTE"), preferably the teacher, when considering initial or continued placement of a student in CTE;
10. a professional staff member who is on the language proficiency assessment committee if the student is identified as emergent bilingual;
11. If the student is a student with a suspected or documented visual impairment, the ARD committee must include a teacher who is certified in the education of students with visual impairments;
12. If the student is a student who is suspected or documented to be deaf or hard of hearing, the ARD committee must include a teacher who is certified in the education of students who are deaf or hard of hearing;
13. If the student is a student with suspected or documented deaf-blindness, the ARD committee must include a teacher who is certified in the education of students with visual impairments and a teacher who is certified in the education of students who are deaf or hard of hearing;
14. If the student is a student who is suspected or identified with dyslexia, when determining initial or continued eligibility, the ARD committee must include a professional who meets the requirements of the Texas Education Code 29.0031(b) and 19 Texas Administrative Code 74.28 and The Dyslexia Handbook; and
15. Any other member required by state or federal law.

19 TAC 89.1050.

A Richard Milburn Academy member of the ARD committee shall not be required to attend an IEP meeting, in whole or in part, if the parent and Richard Milburn Academy agree in writing that the attendance is not necessary because the member's area of the curriculum or related services is not being modified or discussed during the meeting.

A Richard Milburn Academy member of the ARD committee may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of curriculum or related services if the parent, in writing, and Richard Milburn Academy consent to the excusal and the member submits, in writing, to the parent and the ARD committee, input into the development of the IEP before the meeting.

20 U.S.C. § 1414(d)(1)(C); 34 C.F.R. § 300.321(e).

a) *Dyslexia and Related Disorders*

The multidisciplinary evaluation team and any subsequent ARD committee convened to determine a student's eligibility for special education and related services as a child with dyslexia or a related disorder must include at least one member with specific knowledge regarding the reading process, dyslexia and related disorders, and dyslexia instruction. The member must:

1. Hold a licensed dyslexia therapist license under Chapter 403, Occupations Code;
2. Hold the most advanced dyslexia-related certification issued by an association recognized by the State Board of Education, and identified in, or substantially similar to an association identified in, the program rules adopted under Sections 7.102 and 38.003; or
3. If a person qualified under 1 or 2 above is not available, meet the applicable training requirements adopted by the State Board of Education pursuant to Sections 7.102 and 38.003.

The member of a multidisciplinary evaluation team or subsequent ARD committee convened to determine a student's eligibility for special education and related services as described above must sign a document describing the member's participation in the evaluation and any resulting IEP developed for the student.

Education Code 29.0031(b), (c).

a) Transition Meeting Membership

If the ARD committee is meeting to consider postsecondary goals and the transition services needed to assist the student in reaching those goals, Richard Milburn Academy shall invite:

1. The student. If the student does not attend, Richard Milburn Academy shall take other steps to ensure that the student's preferences and interests are considered.
2. To the extent appropriate, and with the consent of the parent or student who has reached the age of majority, a representative of any other agency that is likely to be responsible for providing or paying for transition services.

34 C.F.R. § 300.321(b).

Sec. 4. PARENTAL INVOLVEMENT

Richard Milburn Academy shall take steps to ensure that one or both of the parents of a student with a disability are present at each ARD committee meeting or are afforded the opportunity to participate, including:

1. Notifying the parents of the meeting early enough to ensure that they will have an opportunity to attend (the notice shall include all information required by applicable regulation); and
2. Scheduling the meeting at a mutually agreed time and place.

Written notice of an ARD committee meeting, as required by 19 TAC 89.1050(d), must be provided in the parent's native language, unless it is clearly not feasible to do so. If the parent's native language is not a written language, Richard Milburn Academy must take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication so that the parent understands the content of the notice.

Richard Milburn Academy shall take all reasonable actions necessary to ensure that the parent understands the proceedings of the ARD committee meeting, including arranging for an interpreter for parents who are deaf or hard of hearing or whose native language is a language other than English.

34 C.F.R. § 300.322(a)–(b); 19 TEX. ADMIN. CODE § 89.1050.

Sec. 5. ALTERNATIVE PARTICIPATION METHODS

If neither parent can attend an ARD committee meeting, Richard Milburn Academy must use other methods to ensure parent participation, including individual or conference telephone calls. 20 U.S.C. § 1414(f); 34 C.F.R. § 300.322(c).

An ARD committee meeting may be conducted without a parent in attendance if Richard Milburn Academy is unable to convince the parents that they should attend. In such event, Richard Milburn Academy must keep a record of its attempts to arrange a mutually agreed time and place, suchas:

1. Detailed records of telephone calls made or attempted and the results of those calls;
2. Copies of correspondence sent to the parents and any responses received; and
3. Detailed records of visits made to the parent's home or place of employment and the results of those visits.

34 C.F.R. § 300.322(d).

Sec. 6. ARD COMMITTEE MEETINGS

Richard Milburn Academy shall initiate and conduct ARD committee meetings for the purpose of developing, reviewing, and revising the IEP of a student with a disability. The committee shall review each student's IEP periodically, and, if appropriate, revise the IEP. A meeting must be held for this purpose at least once a year. The ARD committee must also determine the child's placement once per year.

If the student has a behavioral intervention plan ("BIP") as part of the child's IEP, the ARD committee must review the BIP at least annually and more frequently if appropriate to address the safety of the student, the safety of others, or changes in the child's circumstances that may impact the child's

behavior in accordance with TEC 29.005(h).

A meeting does not include informal or unscheduled conversations involving Richard Milburn Academy personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that Richard Milburn Academy personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting. 20 U.S.C. § 1414(d)(4); 34 C.F.R. §§ 300.116(b)(1), 300.324(b), (c)(1); 300.501(b)(3).

a) Meeting at Parent Request

Upon receipt of a written request for an ARD committee meeting from a parent, Richard Milburn Academy must:

1. schedule and convene a meeting; or
2. within five school days, provide the parent with written notice explaining why the district refuses to convene a meeting in the parent's native language, unless it is clearly not feasible to do so. If the parent's native language is not a written language, Richard Milburn Academy must take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication so that the parent understands the content of the notice.

19 TAC 89.1050(e), (f).

b) Transfer Students

If a student transfers to Richard Milburn Academy, and the student had a previous IEP in place, Richard Milburn Academy shall provide the student with a free appropriate public education ("FAPE"), including services comparable to those described in the previous IEP, in consultation with the parents, until:

1. In the case of a student who transfers within the state, Richard Milburn Academy adopts the previous IEP or develops, adopts, and implements a new IEP.
2. In the case of a student who had an IEP in effect in another state, Richard Milburn Academy conducts an evaluation, if determined necessary by Richard Milburn Academy, and develops, adopts, and implements a new IEP, if appropriate.

20 U.S.C. § 1414(d)(2)(C)(i); 34 C.F.R. § 300.323(e), (f).

c) Transfer of Records

Richard Milburn Academy shall take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the child's previous district. 20 U.S.C. § 1414(d)(2)(C)(ii); 34 C.F.R . § 300.323(g).

d) Military Dependents

Richard Milburn Academy shall initially provide comparable services to a military student with disabilities based on his or her current IEP. This does not preclude Richard Milburn Academy from performing subsequent evaluations to ensure appropriate placement of the student. Tex. Educ. Code § 162.002 Art. V, § C.

Sec. 7. ELIGIBILITY DETERMINATIONS

The group of qualified professionals that determines whether a child is a child with a disability and the child's educational needs is the ARD committee.

Evaluations and eligibility determinations shall adhere to the requirements set forth in the IDEA, the Texas Education Code, and their implementing regulations. For additional information, *see* PG-6.14 through 6.16.

19 TAC 89.1040(b), 89.1050(a)(5); 34 CFR 300.306(a)(1).

Richard Milburn Academy shall provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent. 20 U.S.C. § 1414(b)(4)(B); 34 C.F.R. § 300.306(a).

The ARD committee must make its decisions regarding a student's initial eligibility determination and, when appropriate, the student's IEP and placement within the timeframes prescribed by state and federal law.

19 TAC 89.1011(d), (e).

Sec. 8. INDIVIDUALIZED EDUCATION PROGRAM

Richard Milburn Academy shall develop, review, and revise an IEP for each child with a disability, and Richard Milburn Academy shall have an IEP in effect for each child with a disability at the beginning of each school year.

20 U.S.C. 1412(a)(4),(d)(2)(A); 34 CFR 300.320(a).

The term "individualized education program" or :IEP" means a written statement for each child with a disability that includes:

1. A statement of the child's present levels of academic achievement and functional performance;
2. A statement of measurable annual goals, including academic and functional goals;
3. A description of how the child's progress toward the annual goals will be measured and when periodic reports on the progress of the child will be provided;
4. A statement of the specific special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child;
5. A statement of the program modifications or supports for school personnel that will be provided for the child;
6. An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in extracurricular and nonacademic activities;
7. The projected dates for initiation of services and modifications and the anticipated frequency, location, and duration of these services and modifications;
8. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state or system-wide assessments;
9. If the ARD committee determines that the child must take an alternative assessment instead of a particular regular state or system-wide assessment, a statement of why the child cannot participate in the regular assessment and why the particular assessment selected is appropriate for the child;

10. Beginning not later than the first IEP to be in effect when the child is 16, or younger if determined appropriate by the ARD committee, and updated annually thereafter, a statement of appropriate, measurable postsecondary goals and transition services needed to assist the child in reaching those goals; and
11. Beginning not later than one year before the child reaches the age of 17, a statement that the child has been informed of the rights that will transfer to the child upon reaching the age of majority.

20 U.S.C. § 1414(d); 34 C.F.R. § 300.320; 19 TEX. ADMIN. CODE § 89.1055.

Sec. 9. TRANSLATING IEPS

If the child's parent is unable to speak English, Richard Milburn Academy shall:

1. Provide the parent with a written or audio-taped copy of the child's IEP translated into Spanish if Spanish is the parent's native language; or
2. If the parent's native language is a language other than Spanish, make a good faith effort to provide the parent with a written or audiotaped copy of the child's IEP translated into the parent's native language.

TEX. EDUC. CODE § 29.005(d).

Sec. 10. AUTISM/PERVASIVE DEVELOPMENTAL DISORDERS

For students with autism/pervasive developmental disorders, the following strategies shall be considered by the ARD committee, based on peer-reviewed, research-based educational programming practices to the extent practicable and, when needed, addressed in the IEP:

1. Extended educational programming;
2. Daily schedules reflecting minimal unstructured time and active engagement in learning activities;
3. In-home training and community-based training or viable alternatives that assist the student with the acquisition of social/behavioral skills;
4. Positive behavior support strategies based on relevant information;
5. Beginning at any age, futures planning for integrated living, work, community, and educational environments that considers skills necessary to function in current and post- secondary environments;
6. Parent/family training and support, provided by qualified personnel with experience in Autism Spectrum Disorders ("ASD");
7. Suitable staff-to-student ratio appropriate to identified activities and as needed to achieve social/behavioral progress based on the child's developmental and learning level (acquisition, fluency, maintenance, generalization) that encourages work towards individual independence;
8. Communication interventions, including language forms and functions that enhance effective communication across settings;
9. Social skills supports and strategies based on social skills assessment/curriculum and provided across settings;
10. Professional educator/staff support; and
11. Teaching strategies based on peer-reviewed, research-based practices for students with ASD.

If the ARD committee determines that services are not needed in one or more of the areas in 1–11 above, the IEP shall include a statement reflecting that decision and the basis upon which the determination was made. *19 TEX. ADMIN. CODE § 89.1055(g)*

Sec. 11. VISUAL IMPAIRMENT

Richard Milburn Academy shall adopt written procedures as required in Tex. Educ. Code § 30.002(c)(10) for providing special education services to students with visual impairments, if such services are necessary. *19 TEX. ADMIN. CODE § 89.1075(b).*

An IEP for a student with a visual impairment must include instruction in braille unless the student's ARD committee determines and documents that braille is not an appropriate literacy medium for the student, based on an evaluation of the student's appropriate literacy media and literacy skills and the student's current and future instructional needs. *Tex. Educ. Code § 30.002.*

Sec. 12. STUDENTS WHO ARE DEAF OR HARD OF HEARING

Richard Milburn Academy must develop an IEP for students who are deaf or hard of hearing in which the students have an education in which their unique communication mode is respected, used, and developed to an appropriate level of proficiency. *Tex. Educ. Code § 29.303.*

Sec. 13. COLLABORATIVE PROCESS

All members of the ARD committee shall have the opportunity to participate in a collaborative manner in developing the IEP. Decisions concerning the required elements of the IEP shall be made by agreement of the required members, if possible. The ARD committee may agree to an annual IEP or an IEP of shorter duration.

a) Recess

When agreement about all required elements of the IEP is not achieved, the parent or adult student who disagrees shall be offered a single opportunity to have the ARD committee recess for a period not to exceed ten school days. This recess is not required when:

1. The student's presence on campus represents a danger of physical harm to the student or others;
2. The student has committed an expellable offense; or
3. The student has committed an offense that may lead to placement in a disciplinary alternative education program.

These requirements do not prohibit the members of the ARD committee from recessing an ARD committee meeting for reasons other than failure of the parents and Richard Milburn Academy to reach agreement about all required elements of an IEP.

During the recess, the ARD committee members shall consider alternatives, gather additional data, prepare further documentation, and/or obtain additional resource persons to enable the ARD committee to reach agreement.

The date, time, and place for continuing the ARD committee meeting shall be determined by agreement before the recess.
19 TAC 89.1050(g).

When an ARD committee agrees to recess and reconvene due to a lack of mutual agreement about one or more required IEP elements, the parent or Richard Milburn Academy may request an independent facilitator from the Texas Education Agency in accordance with 19 TAC 89.1197 and TEC 29.020.

b) No Agreement Reached

If, after the ten-day recess, the ARD committee still cannot reach agreement, Richard Milburn Academy shall implement the IEP that it has determined to be appropriate for the student. A written statement of the basis for the disagreement shall be included in the IEP. Each ARD committee member who disagrees with IEP is entitled to include a statement of disagreement in the IEP.
TEC 29.005(c); 19 TAC 89.1050(g).

When Richard Milburn Academy implements an IEP with which the parents, or an adult student disagree, it shall provide prior written notice in compliance with applicable regulations and Richard Milburn Academy policy.
19 TEX. ADMIN. CODE § 89.1050.

Sec. 14. IEP MODIFICATION

After a student's annual ARD committee meeting, changes to an IEP may be made either by the entire ARD committee or by amending the IEP by agreement, rather than redrafting the entire IEP.
To do so, the parent and Richard Milburn Academy must agree to not convene an ARD committee meeting to amend the IEP and Richard Milburn Academy must develop a written document to amend or modify the IEP.

Upon request, a parent shall be provided with a revised copy of the IEP with amendments incorporated.
Decisions regarding eligibility, changes of placement, and manifestation determination reviews may not be conducted through the amendment process.

34 CFR 300.324(a)(4),(6).

To the extent possible, Richard Milburn Academy shall encourage the consolidation of reevaluation meetings for the child and other ARD committee meetings for the child. 20 U.S.C. § 1414(d)(3)(D)–(F); 34 C.F.R. § 300.324(a)(4)–(a)(6).

Sec. 15. LEAST RESTRICTIVE ENVIRONMENT

Richard Milburn Academy shall ensure that, to the maximum extent possible, children with disabilities shall be educated with children who are not disabled. Special classes, special schooling,
or other removal of children with disabilities from the regular educational environment shall occur only when the nature or severity of the child's disability is such that education in regular classes with the use of supplementary aids and services cannot be satisfactorily achieved. 20 U.S.C. § 1412(a)(5); 34 C.F.R. § 300.114(a)(2).

Sec. 16. EXTENDED SCHOOL YEAR SERVICES

Richard Milburn Academy shall ensure that ESY services are available as necessary to provide a student with a disability with a FAPE.

ESY services must be provided only if the ARD committee determines, on an individual basis, that the services are necessary for a FAPE. Richard Milburn Academy may not limit ESY services to particular categories of disability or unilaterally limit the type, amount, or duration of ESY services. 34 C.F.R. § 300.106; 19 TEX. ADMIN. CODE § 89.1065.

Sec. 17. GRADUATION

For information concerning graduation, please refer to PG-6.22.

Sec. 18. STATE ASSESSMENTS

The TEA shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program for whom a state assessment instrument adopted under Tex. Educ. Code § 39.023(a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's ARD committee, including assessment instruments approved by the Commissioner that measures growth. The assessment instruments developed or adopted, including the assessment instruments approved by the Commissioner, must, to the extent allowed under federal law, provide a district with options for the assessment of students.

The TEA may not adopt a performance standard that indicates that a student's performance on the alternate assessment does not meet standards if the lowest level of the assessment accurately represents the student's developmental level as determined by the student's ARD committee.

The student's ARD committee shall determine whether any allowable modification is necessary in administering to the student a required end-of-course ("EOC") assessment instrument under Tex. Educ. Code § 39.023(c), and whether the student is required to achieve satisfactory performance on an EOC assessment instrument to receive a high school diploma.

Sec. 19. TRANSPORTATION

Richard Milburn Academy shall provide special transportation with federal funds only when the ARD committee determines that the condition of the student warrants the service in order for the student to receive the special education and related services (if any) set forth in the IEP. 19 TEX. ADMIN. CODE § 89.1096(e).

Sec. 20. TRANSITIONING SERVICES

a) Definitions

"Transition services" means a coordinated set of activities for a child with a disability that:

1. Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.
2. Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes:
    a. Instruction;
    b. Related services;
    c. Community experiences;
    d. The development of employment and other post-school adult living objectives; and
    e. If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

20 U.S.C. § 1401(34); 34 C.F.R. § 300.43.

b) Individual Transition Planning

Not later than the first IEP to be in effect when the student turns 14 years of age, and at least annually thereafter, the ARD committee must consider and, if appropriate, address the following IEP:

1. appropriate student involvement in the student's transition to life outside the public school system;
2. appropriate involvement in the student's transition by the student's parents and other persons invited to participate by:
    a. the student's parents; or
    b. the LEA in which the student is enrolled;
3. appropriate postsecondary education options, including preparation for postsecondary-level coursework;
4. an appropriate functional vocational evaluation;
5. appropriate circumstances for facilitating a referral of a student or the student's parents to a governmental agency for services or public benefits, including a referral to a governmental agency to place the student on a waiting list for public benefits available to the student such as a waiver program established under the Social Security Act (42 U.S.C. Section 1396n(c)), §1915(c); and
6. the use and availability of appropriate:
    a. supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills; and
    b. supports and services to foster the student's independence and self-determination, including a supported decision-making agreement under Texas Estates Code, Chapter 1357.

19 TAC 89.1055(k), (o).

In accordance with 34 CFR 300.320(b), beginning not later than the first IEP to be in effect when the student turns 14 years of age, or younger if determined appropriate by the ARD committee, and at least annually thereafter, the IEP must include:

1. appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
2. the transition services, including courses of study, needed to assist the student in reaching the postsecondary goals.

20 U.S.C. 1414(d)(1)(A)(i)(VIII), 1414(d)(6); 34 CFR 300.320(b); Education Code 29.011(a)(6), (8); 19 TAC 89.1055(l),(m), (o).

Beginning not later than the first IEP to be in effect when the student turns 18 years of age, and at least annually thereafter, the ARD committee must consider and, if appropriate, address the following issues in the student's IEP:

1. involvement in the student's transition and future by the student's parents and other persons, if the parent or other person:
    a. is invited to participate by the student or the school district in which the student is enrolled; or
    b. has the student's consent to participate pursuant to a supported decision-making

agreement under Texas Estates Code, Chapter 1357; and

2. the availability of age-appropriate instructional environments, including community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the student's transition goals and objectives.

19 TAC 89.1055(n), (*o).*

Richard Milburn Academy shall post the transition and employment guide on the Richard Milburn Academy website if Richard Milburn Academy maintains a website; provide written information and, if necessary, assistance to a student or parent regarding how to access the electronic version of the guide at: (A) the first meeting of the student's ARD committee at which transition is discussed; and (B) the first committee meeting at which transition is discussed that occurs after the date on which the guide is updated. Upon request, Richard Milburn Academy shall provide a printed copy of the guide to a student or parent. Tex. Educ. Code § 29.0112.

c) Driving with Disability Program Information

Richard Milburn Academy may provide information pertaining to the Texas Driving with Disability Program along with transition planning materials. For additional information, *see* PG-6.30. *Tex. Educ. Code 29.0113.*

d) Graduation– See PG-6.22.

Sec. 21. IMPROVEMENT PLANS/BEHAVIOR INTERVENTION PLANS

The ARD committee may determine that a behavior improvement plan or a behavioral intervention plan ("BIP") is appropriate for a student with an IEP. If deemed appropriate, the BIP shall be included as part of the student's IEP and provided to each teacher with responsibility for educating the student.

If a BIP is included as part of a student's IEP, the ARD committee shall review the plan at least annually and more frequently if appropriate to address:

1. changes in a student's circumstances that may impact the student's behavior, such as:
    a. the placement of the student in a different educational setting;
    b. an increase or persistence in disciplinary actions taken regarding the student for similar types of behavioral incidents;
    c. a pattern of unexcused absences; or
    d. an unauthorized unsupervised departure from an educational setting; or
2. the safety of the student or others.

Education Code 29.005(g),(h).

Sec. 22. SUPPLEMENTAL SPECIAL EDUCATION SERVICES PROGRAM/PARENT-DIRECTED SPECIAL EDUCATION SERVICES (PDES)

The Texas Education Agency ("TEA") shall administer the Supplemental Special Education Services Program under Chapter 29, Education Code, Subchapter A-1 ("SSES Program" or "SSES") as under the

name Parent-Directed Special Education Services ("the PDES Program" or "PDES"). Any reference to the SSES Program, supplemental special education services, supplemental special education instructional materials, or SSES is to be considered synonymous with the PDES Program. The PDES Program provides a $1,500 grant to parents and guardians of eligible students, so long as funds are available, for use in the purchasing of materials and services through the curated marketplace of educational goods and services. *19 TAC 102.1601*.

a) ARD Committee Duties

For a student who has been approved to participate in the PDES Program, the ARD committee shall provide to the student's parent:

1. Information regarding the types of supplemental special education services available under the SSES Program and provided by TEA-approved providers for which an account maintained under Education Code 29.042(b) may be used; and
2. Instructions regarding accessing the SSES Program account.

Education Code 29.048(b).

b) ARD Committee Prohibited Considerations

The ARD committee shall not consider a student's current or anticipated eligibility for any materials or services that may be provided under the PDES Program when developing or revising the student's IEP, when determining a student's educational setting, or in the provision of a free and appropriate public education.
Education Code 29.048(a); 19 TAC 102.1601(k).

PG-6.4 ADULT STUDENT

SEC. 1. AGE OF MAJORITY – TRANSFER OF RIGHTS

Not later than one year before the 18th birthday of a student with a disability, Richard Milburn Academy shall:

1. Provide to the student and the student's parents:
   a. Written notice regarding the transfer of rights; and
   b. Information and resources regarding guardianship, alternatives to guardianship, including a supported decision-making agreement under Texas Estates Code, Chapter 1357, and other supports and services that may enable the student to live independently; and
2. Ensure that the student's individualized education program ("IEP") includes a statement that Richard Milburn Academy provided the required notice, information, and resources.

When a student reaches the age of majority (18 years of age), Richard Milburn Academy shall provide written notice to the student and the student's parents of the transfer of parental rights. The notice must include the information required above.

This notice is separate and distinct from the requirement that, beginning at least one year before the student reaches the age of 18, the student's IEP include a statement regarding transfer of parental rights.

If a student with a disability or the student's parent requests information regarding guardianship or

alternatives to guardianship, Richard Milburn Academy shall provide the student or parent information and resources on supported decision-making agreements under Texas Estates Code, Chapter 1357.

A student with a disability who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Chapter 31, Family Code, shall have the same right to make educational decisions as a student without a disability. All other rights accorded to parents under Chapter 29, Subchapter A of the Texas Education Code or 20 U.S.C. § 1415 transfer to the student.

(34 C.F.R. § 300.520; Tex. Educ. Code § 29.017(a), (c), (c-1), (c-2); 19 Tex. Admin. Code § 89.1049(c)).

PG-6.6 CHILD FIND DUTY

SEC. 1. CHILD FIND

Richard Milburn Academy shall ensure that all children residing within Richard Milburn Academy's boundaries who have disabilities, regardless of the severity of their disabilities, and who are in need of special education and related services are identified, located, and evaluated. This requirement applies to all children with disabilities, including:

1. Homeless children;
2. Children who are wards of the state;
3. Children attending private schools;
4. Highly mobile children (including migrant children); and
5. Children who are suspected of being in need of special education but who are advancing from grade to grade.

20 U.S.C. § 1412(a)(3)(A); 34 C.F.R. § 300.111(a)(1)(i), (c).

SEC. 2. STUDENT RECORDS

After each student is enrolled in Richard Milburn Academy, Richard Milburn Academy will promptly request all student records from the student's previous school.

PG-6.7 CHILDREN WHO TRANSFER

Sec. 1 Special Education Verification

For purposes of the requirements set forth in this Policy, "verify" means that the new school district has received a copy of the student's individualized education program ("IEP") that was in effect in the previous district. The first school day after the new district receives a copy of the student's IEP that was in effect in the previous district begins the timelines set forth in 19 TAC 89.1055(s)(1), (2).

Sec. 2 STUDENTS WHO TRANSFER WITH AN IEP DURING THE SAME SCHOOL YEAR

In accordance with 34 CFR § 300.323(g), Richard Milburn Academy shall take reasonable steps to promptly obtain the student's records from a previous school or district in order to facilitate the student's transition, and for students transferring from Richard Milburn Academy, Richard Milburn Academy will furnish a copy of the student's records, including the student's special education records to the student's new school not later than the 10th working day after the date Richard Milburn Academy received the request for education.

34 CFR 300.323(g); TEC 25.002; 19 TAC 89.1055(s)(4).

a) Texas Transfers

When a student transfers to Richard Milburn Academy from another school district within Texas, Richard Milburn Academy shall provide a free appropriate public education ("FAPE") to the student. Richard Milburn Academy shall provide comparable services as those described in the IEP the student transferred with until Richard Milburn Academy adopts the student's IEP from the previous school, or develops, adopts and implements a new IEP. Richard Milburn Academy must either adopt the student's IEP from the previous school district or develop, adopt, and implement a new IEP within 20 school days from the date the student is verified as being a student eligible for special education services. *34 CFR 300.323(e), (g); 19 TAC 89.1050(j)(1).*

34 CFR 300.323(e); 19 TAC 89.1050(s)(l).

b) Out-of-State Transfers

If the student with a disability transfers to Richard Milburn Academy from a school district outside of Texas and the parents or previous school district verifies that the student had an IEP that was in effect in the previous district, Richard Milburn Academy shall provide the student with FAPE, including comparable services, until Richard Milburn Academy conducts an evaluation, if appropriate and develops, adopts, and implements a new IEP. (34 C.F.R. § 300.323).

If Richard Milburn Academy determines that an evaluation is necessary, the evaluation is considered a full individual and initial evaluation and must be completed within the timelines established by 19 TAC 89.1011(c) and (e). Richard Milburn Academy must then develop, adopt, and implement a new IEP within 30 calendar days of the completion of the evaluation report.

If Richard Milburn Academy determines that an evaluation is not necessary, Richard Milburn Academy shall develop, adopt, and implement a new IEP within 20 school days from the date the student is verified as being a student eligible for special education services.

34 CFR 300.323(f); 19 TAC 89.1055(s)(2).

a. Comparable Services Pending Verification

While Richard Milburn Academy *waits for verification,* Richard Milburn Academy *must take reasonable steps to provide, in consultation with the student's parents, services comparable to those the student received from the previous district if* Richard Milburn Academy *has been informed by the previous school district of the student's special education and related services and placement.*

19 TAC 89.1055(s)(7).

b. Comparable Services Following Verification

Once Richard Milburn Academy *receives verification that the student had an IEP in effect at the*

previous district, Richard Milburn Academy *shall provide comparable services to the student during the timelines established under subparagraphs (a) and (b) of this Section. Comparable services include provision of Extended School Year ("ESY") services if those services are identified in the previous IEP or if* Richard Milburn Academy *has reason to believe that the student would be eligible for ESY services.*

19 TAC 89.1055(s)(8).

c. Requirements If Unable to Obtain Verification

If a parent hasn't already provided verification of eligibility and the Richard Milburn Academy *has been unable to obtain the necessary verification records from the previous district by the 15th working day after the date* Richard Milburn Academy *submitted a request for the records to the previous district,* Richard Milburn Academy *shall seek verification from the student's parent. Nothing prohibits* Richard Milburn Academy *from asking the parent to provide verification of eligibility before that date. If the parent is unwilling or unable to provide such verification,* Richard Milburn Academy *shall continue to take reasonable steps to obtain the student's records from the previous district and provide any services comparable to what the student received at the previous district if they communicate those to the* Richard Milburn Academy

19 TAC 89.1055(s)(5).

Sec. 3 STUDENTS WHO TRANSFER WITH AN IEP DURING THE SUMMER

A student with a disability who has an IEP in place from a previous in- or out-of-state school district and who enrolls in a new local educational agency ("LEA") during the summer when students are not in attendance for instructional purposes is not considered a transfer student for the purposes of 34 CFR 300.323(e) or (f) and corresponding state law and/or regulations. The provisions in19 TAC 89.1055(s)(1) shall apply if the student comes from an in-state school district, and the provisions in 19 TAC 1055(s)(2) shall apply if the student comes from an out-of-state district.

19 TAC 89.1055(s)(7).

PG-6.8 CLOSING THE GAP

Sec. 1. BILINGUAL EDUCATION PROGRAM

Richard Milburn Academy shall identify Limited English Proficient (LEP) students based on state criteria. Richard Milburn Academy shall provide an appropriate Bilingual Education (BE) or English as a Second Language (ESL) program conducted by teachers certified for such courses. (Tex. Educ. Code Chapter 29, Subchapter B; 19 TEX. ADMIN. CODE §§ 89.1201-1265*; Education Code 29.060(a).*

Sec. 2. STUDENT WITH DISABILITIES AND EMERGENT BILINGUAL STUDENTS

Richard Milburn Academy shall ensure that an emergent bilingual student with limited English proficiency who also qualifies for special education services as a student with a disability under the Individuals with Disabilities Education Act (IDEA) is not refused services in a bilingual education or English as a second language program solely because the student has a disability. (19 TEX. ADMIN.CODE § 89.1230).

Sec. 3. APPLICABILITY OF TITLE RELATING TO BILINGUAL EDUCATION

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the Texas Education Code, relating to bilingual education under Subchapter B (Bilingual Education and Special Language Programs), Chapter 29, Texas Education Code. (TEX. EDUC. CODE § 12.104(b)(2)(G)). Richard Milburn Academy adopts the requirements of Subchapter B (Bilingual Education and Special Language Programs), Chapter 29, Texas Education Code pursuant to TEX. EDUC. CODE § 12.104(b)(2)(G).

Sec. 4. ESTABLISHMENT OF BILINGUAL EDUCATION AND SPECIAL LANGUAGE PROGRAM

Richard Milburn Academy shall establish a BE or ESL program as required by TEX. EDUC. CODE § 29.053 (Establishment of Bilingual Education and Special Language Programs) and in accordance with the procedures established by the Texas Education Agency ("TEA"), unless otherwise excepted under TEX. EDUC. CODE § 29.054 (Exception). (TEX. EDUC. CODE § 29.053).

Sec. 5. LANGUAGE PROFICIENCY ASSESSMENT COMMITTEES

Richard Milburn Academy shall further establish a Language Proficiency Assessment Committee ("LPAC") that complies with TEX. EDUC. CODE § 29.063. The LPAC shall select the appropriate assessment option for each English language learner (ELL) in accordance with this subchapter. For each ELL who receives special education services, the student's admission, review, and dismissal ("ARD") committee in conjunction with the student's LPAC shall select the appropriate assessments. The LPAC shall document the decisions and justifications in the student's permanent record file, and the ARD committee shall document the decisions and justifications in the student's individualized education program. Assessment decisions shall be made on an individual student basis and in accordance with administrative procedures established by the TEA. 19 Tex. Admin. Code § 101.1005(a).

Sec. 6. PROGRAM CONTENT; METHOD OF INSTRUCTION

Richard Milburn Academy's bilingual education program's content and instruction shall comply with TEX. EDUC. CODE § 29.055.

Sec. 7. ENROLLMENT OF STUDENTS IN PROGRAM

Richard Milburn Academy shall comply with the TEA criteria for identification, assessment, and classification of emergent bilingual students eligible for entry into the program or exit from the program. (TEX. EDUC. CODE § 29.056(a)*; 19 TAC 89.1226.*

The student's parent or adult student must approve a student's entry into the program, exit from the program, or placement in the program. The open-enrollment charter school or parent may appeal the decision under TEX. EDUC. CODE § 29.064. (TEX. EDUC. CODE § 29.056(a)).

Richard Milburn Academy, through its LPAC, shall evaluate and consider reenrollment of students who have transferred out of a bilingual education or special language program under TEX. EDUC. CODE § 29.056(h) as required by TEX. EDUC. CODE § 29.0561.

Sec. 8. FACILITIES; CLASSES

Richard Milburn Academy shall ensure that bilingual education and special language programs are located in the regular public charter school rather than in separate facilities. (TEX. EDUC. CODE § 29.057).

Sec. 9. ENROLLMENT OF STUDENTS WHO ARE NOT EMERGENT BILINGUAL STUDENTS

Richard Milburn Academy ensures that enrollment of students who are not emergent bilingual may occur only if the requirements of TEC §29.058 are met. (TEC §29.058).

Sec. 10. COOPERATION AMONG SCHOOLS

Richard Milburn Academy may cooperate with other schools to provide a bilingual education or special language program. (TEC §29.059).

Sec. 11. BILINGUAL EDUCATION AND SPECIAL LANGUAGE PROGRAM TEACHERS

Richard Milburn Academy shall ensure that bilingual education and special language program teachers are properly certified. (TEX. EDUC. CODE § 29.061).

Sec. 12. APPEALS

A parent of a student enrolled in a bilingual education or special language program may appeal to the Commissioner of Education if Richard Milburn Academy fails to comply with the requirements established by law or by the TEA. If the parent disagrees with the placement of the student in the program, the parent may appeal that decision to the Board. Appeals shall be conducted in accordance with procedures adopted by the Commissioner of Education under Title 19, Chapter 157 of the Texas Administrative Code. (TEX. EDUC. CODE § 29.064; 19 Tex. Admin. Code § 89.1240).

Sec. 13. PEIMS REPORTING REQUIREMENTS

Richard Milburn Academy shall meet Public Education Information Management System (PEIMS) Reporting Requirements with respect to its bilingual education or special language programs. (TEX. EDUC. CODE § 29.066).

PG-6.9 CONSENT AND PRIOR WRITTEN NOTICE

Sec. 1. CONSENT

Consent means that:

1. The parent or adult student has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;

2. The parent or adult student understands and agrees in writing to the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and
3. The parent or adult student understands that the granting of consent is voluntary on the part of the parent or adult student and may be revoked at any time. A revocation of consent is not retroactive.

If the parent or adult student revokes consent in writing for the child's or adult student's receipt of services after the child or adult student is initially provided special education and related services, Richard Milburn Academy is not required to amend the child's or adult student's education records to remove any references to the child's or adult student's receipt of services because of the revocation of consent. 34 C.F.R. § 300.9.

Sec. 2. LANGUAGE OF NOTICES

The procedural safeguards and prior notices described below must be written in a language understandable to the general public. The notice must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. 34 C.F.R. §§ 300.503(c), 300.504(d).

a) Electronic Delivery of Notices

A parent of a child or adult student with a disability may elect to receive required notices by electronic mail, if Richard Milburn Academy makes that option available. 34 C.F.R. § 300.505.

Sec. 3. NOTICE OF PROCEDURAL SAFEGUARDS

Richard Milburn Academy shall provide a copy of the procedural safeguards to parents or adult student only once per year, except that a copy also shall be given to the parents or adult student:

1. Upon initial referral or parental or adult student request for evaluation;
2. Upon receipt of the first state complaint and upon receipt of the first due process complaint in a school year;
3. On the date of a decision to make a disciplinary removal that is a change in placement; and
4. Upon request by a parent or adult student.

Richard Milburn Academy may also place a current copy of the procedural safeguards notice on its Internet website.

a) Contents of Notice

The notice shall include a full explanation of the procedural safeguards relating to:

1. Independent educational evaluations;
2. Prior written notice;
3. Parental consent;
4. Access to educational records;
5. Opportunity to present and resolve complaints through the due process complaint and state complaint procedures, including:

a. The time period in which to file a complaint,
b. The opportunity for Richard Milburn Academy to resolve the complaint; and
c. The difference between the due process complaint and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures.

6. The availability of mediation;
7. The child's placement during pendency of any due process proceedings;
8. Procedures for children who are subject to placement in an interim alternative educational setting;
9. Requirements for unilateral placement by parents of children in private schools at public expense;
10. Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
11. Civil actions, including the time period in which to file such actions; and
12. Attorneys' fees.

20 U.S.C. § 1415(a)–(b), (d); 34 C.F.R. § 300.504(c).

Sec. 4. PRIOR WRITTEN NOTICE AND CONSENT

Richard Milburn Academy shall provide prior written notice to the parents within a reasonable time before the school proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of a child or the provision of a FAPE to the child.*34 CFR 300.503(a)*.

Notice must be provided to the parent in the parent's native language or other mode of communication at least five school days before Richard Milburn Academy proposes or refuses the action, unless the parent agrees to a shorter time frame. *19 TAC 89.1050(h)*.

a) Contents of Notice

The notice must include:

1. A description of the action proposed or refused by Richard Milburn Academy;
2. An explanation of why Richard Milburn Academy proposes or refuses to take the action;
3. A description of each evaluation procedure, assessment, record, or report Richard Milburn Academy used as a basis for the proposed or refused action;
4. A statement that the parents or adult student have protection under the procedural safeguards and, if this notice is not an initial referral for evaluation, the means by which a copy of the procedural safeguards can be obtained;
5. Sources for parents or adult student to contact to obtain assistance in understanding the Individuals and Disabilities Education Act ("IDEA") rules;
6. A description of other options the admission, review and dismissal ("ARD") committee considered and the reasons why those options were rejected; and
7. A description of other factors relevant to Richard Milburn Academy's proposal or refusal.

34 C.F.R. § 300.503(b).

b) Consent to Initial Evaluation

Before Richard Milburn Academy conducts an initial evaluation, it shall provide prior written notice, including a description of any evaluation Richard Milburn Academy proposes to conduct, and obtain informed consent for the evaluation from the parents or adult student. 20 U.S.C. § 1414(a)(1)(D), (E); 34

C.F.R. § 300.304(a).

c) Consent to Services

Richard Milburn Academy shall seek informed consent from the parent or adult student before providing special education and related services to the student. 20 U.S.C. § 1414(a)(1)(D).

d) Consent to Reevaluation

Richard Milburn Academy shall obtain informed parental consent before conducting any reevaluation of a child with a disability, except that such informed parental consent need not be obtained if Richard Milburn Academy can demonstrate that it has taken reasonable measures to obtain such consent and the parent has failed to respond. *20 U.S.C. 1414(c)(3)*.

e) Psychological Examinations and Tests

On request of a child's parent, before obtaining the parent's consent under 20 U.S.C. Section 1414 for the administration of any psychological examination or test to the child as part of the evaluation of the child's need for special education, Richard Milburn Academy shall provide to the child's parent:

1. The name and type of the examination or test; and
2. An explanation of how the examination or test will be used to develop an appropriate Individualized Education Program ("IEP") for the child.

If Richard Milburn Academy determines that an additional examination or test is required for the evaluation of a child's need for special education after obtaining consent from the child's parent, Richard Milburn Academy shall provide the information above to the parent regarding the additional examination or test and shall obtain additional consent for the examination of test. *Education Code 29.0041(a), (b)*.

Sec. 5. CONSENT TO EXCUSE MEMBER FROM ATTENDING ARD COMMITTEE MEETING

A Richard Milburn Academy member of the ARD committee may be excused from attending an individualized education program ("IEP") meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of curriculum or related services if the parent or adult student, in writing, and Richard Milburn Academy consent to the excusal and the member submits, in writing, to the parent and the ARD committee, input into the development of the IEP before the meeting.

Sec. 6. PARENTAL OR ADULT STUDENT CONSENT TO ACCESS PUBLIC BENEFITS

Richard Milburn Academy shall obtain informed consent from the parent each time that access to a parent's private insurance proceeds or to public benefits or an insurance program is sought. (34 C.F.R. § 300.154(d)(2)(iv)(A)).

Sec. 7. PARENTAL OR ADULT STUDENT CONSENT FOR TRANSFER OF ASSISTIVE TECHNOLOGY DEVICES

Richard Milburn Academy shall obtain informed consent from the parent, or the adult student if the adult student has the legal capacity to enter into a contract before transferring an assistive technology device

through a transfer agreement that incorporates the standards of the state.

Sec. 8. OTHER CONSENT REQUIREMENTS

Parental consent is not required before Richard Milburn Academy may:

1. review existing data as part of the student's evaluation or a reevaluation; or
2. give the student a test or other evaluation that is given to all students unless, before that test or evaluation, consent is required from parents of all students. 34 C.F.R. § 300.300(d).

PG-6.10 COORDINATOR OF FUNDS TO PURCHASE INSTRUCTIONAL MATERIALS

Instructional materials adopted by Richard Milburn Academy must be provided to students at no cost.

If Richard Milburn Academy chooses to coordinate with the National Instructional Materials Access Center (NIMAC) when purchasing print instructional materials, it must acquire the print instructional materials in the same manner and subject to the same conditions as the Texas Education Agency acquires print instructional materials.

If Richard Milburn Academy chooses not to coordinate with the NIMAC when purchasing print instructional materials, it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner and shall provide assurance of compliance with this policy to the Texas Education Agency.

PG-6.11 DISCIPLINE OF STUDENTS WITH DISABILITIES

PART I: DISCIPLINE OF STUDENTS WITH DISABILITIES UNDER SECTION 504

Sec. 1. STUDENTS WITH DISABILITIES UNDER SECTION 504

Richard Milburn Academy shall conduct an evaluation in accordance with 34 C.F.R. 104.35(b) before taking any action with respect to any significant change in placement of a student with a disability who needs or is believed to need special education and related services. *34 CFR 104.35(a)*.

Richard Milburn Academy may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student with a disability who is currently engaging in the illegal use of drugs or alcohol to the same extent that Richard Milburn Academy would take disciplinary action against nondisabled students. The due process procedures afforded under Section 504 do not apply to such disciplinary action. *29 U.S.C. 705(20)(C)(iv)*.

PART II: DISCIPLINE OF STUDENTS RECEIVING SPECIAL EDUCATION SERVICES

Sec. 2. SPECIAL EDUCATION STUDENTS

Except as set forth below, the placement of a student with a disability who receives special education

services may be made only by a duly constituted admission, review, and dismissal ("ARD") committee. Any disciplinary action regarding the student shall be determined in accordance with federal law and regulations.

1. functional behavioral assessments ("FBAs");
2. positive behavioral interventions, strategies, and supports;
3. behavioral intervention plans/behavior improvement plans ("BIPs"); and
4. the manifestation determination review ("MDR").

Education Code 37.004(b).

Sec. 3. REMOVAL FOR TEN DAYS OR LESS

A student with a disability who violates the Richard Milburn Academy Student Code of Conduct may be moved from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten consecutive school days, to the extent those alternatives are applied to children without disabilities. *20 U.S.C. 1415(k)(1)(B); 34 C.F.R. 300.530(b)(1)*.

Services During Removal for Ten Days or Less. Richard Milburn Academy is required to provide services during the period of removal if Richard Milburn Academy provides services to a child without disabilities who is similarly removed. *34 C.F.R. 300.530(d).*

Sec. 4. SUBSEQUENT REMOVALS OF ENDS OR LESS

Richard Milburn Academy personnel may remove the student for additional removals of not more than ten consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change in placement*. under 34 CFR 300.536. 34 C.F.R. 300.530(b)(1).*

Services During Subsequent Removals of Ten Days or Less. After a student has been removed from his or her current placement for ten school days in the same school year, during any subsequent removal of ten consecutive school days or less, school personnel, in consultation with at least one of the student's teachers, shall determine the extent to which services are needed so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's individualized education program ("IEP"). *20 U.S.C. 1415(k)(1)(D); 34 C.F.R. 300.530(d)(4)*.

Sec. 5. NOTICE OF PROCEDURAL SAFEGUARDS

Not later than the date on which the decision to take the disciplinary action is made, Richard Milburn Academy shall notify the student's parents or adult student of the decision and of all procedural safeguards. *20 U.S.C. 1415(k)(1)(H)*.

Sec. 6. CHANGES IN PLACEMENT

Any disciplinary action that would constitute a change in placement may be taken only after the student's ARD committee conducts a manifestation determination review.("MDR")

For purposes of disciplinary removal of a student with a disability, a change in placement occurs if a student

is:

1. Removed from the student's current educational placement for more than ten consecutive school days; or
2. Subjected to a series of removals that constitute a pattern because:
    a. The series of removals total more than ten school days in a school year;
    b. The student's behavior is substantially similar to the student's behavior in the previous incidents that resulted in the series of removals; and
    c. Additional factors exist, such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

Richard Milburn Academy determines, on a case-by-case basis, whether a pattern of removals constitutes a change in placement. Richard Milburn Academy's determination is subject to review through due process and judicial proceedings. *34 C.F.R. 300.536*.

Richard Milburn Academy personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a student who violates the Student Code of Conduct. *20 U.S.C. 1415(k)(1)(A)*.

Sec. 7. MANIFESTATION DETERMINATION

Within ten school days of any decision to change the placement of a student because of a violation of the Student Code of Conduct, Richard Milburn Academy, parents or adult student, and relevant members of the ARD committee (as determined by the parent and Richard Milburn Academy) shall provide procedural safeguards to the parent or adult student and shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine whether the conduct in question was:

1. Caused by, or had a direct and substantial relationship to, the student's disability; or
2. The direct result of Richard Milburn Academy's failure to implement the IEP.

If Richard Milburn Academy, the parent or adult student, and relevant members of the ARD committee determine that either of the above is applicable, the conduct shall be determined to be a manifestation of the student's disability.

20 U.S.C. 1415(k)(1)(E); 34 C.F.R. 300.530(e).

a) Not a Manifestation

If the determination is that the student's behavior was not a manifestation of the student's disability, school personnel may apply the relevant disciplinary procedures to the student in the same manner and for the same duration as for students without disabilities. The ARD committee shall determine the interim alternative educational setting.
20 U.S.C. 1415(k)(1)(C), (k)(2); 34 C.F.R. 300.530(c).

i. <u>Services During Removal</u>

The student must:

1. Continue to receive educational services so as to enable the student to continue to participate in the

general education curriculum, although in another setting, and to progress toward meeting the goals in the student's IEP.
2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

These services may be provided in an interim alternative educational setting. *34 C.F.R. 300.530(d)(1)–(2).*

b) Manifestation

If Richard Milburn Academy, the parents, and relevant members of the ARD committee determine that the conduct was a manifestation of the student's disability, the ARD committee shall:

1. Conduct a functional behavioral assessment ("FBA"), unless Richard Milburn Academy had conducted an FBA before the behavior that resulted in the change in placement occurred, and implement a behavioral intervention plan ("BIP") for the student; or
2. If a BIP has already been developed, review the BIP and modify it, as necessary, to address the behavior.

Except as provided for SPECIAL CIRCUMSTANCES, below, the ARD committee shall return the student to the placement from which the student was removed, unless the parent, and Richard Milburn Academy agree to a change in placement as part of the modification of the BIP.
20 U.S.C. 1415(k)(1)(F); 34 C.F.R. 300.530(f).

i. Special Circumstances

Richard Milburn Academy personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:

1. Carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of Texas Education Agency (the "TEA") or Richard Milburn Academy; or
2. Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of the TEA or Richard Milburn Academy;
3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the TEA or Richard MilburnAcademy.
   20 U.S.C. 1415(k)(1)(G); 34 C.F.R. 300.530(g).

The ARD committee shall determine the interim alternative education setting. 20 U.S.C. 1415(k)(2).

c) Services During Removal

The student must:

1. Continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the student's IEP.
2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

These services may be provided in an interim alternative educational setting. *34 C.F.R. 300.530(d)(1).*

Sec. 8. APPEALS

A parent who disagrees with a placement decision or the manifestation determination may request a hearing. Additionally, Richard Milburn Academy may request a hearing if it believes that maintaining a current placement of a student is substantially likely to result in injury to the student or others.

a) Placement During Appeals

When an appeal has been requested by a parent or Richard Milburn Academy, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the student's assignment to the alternative setting, whichever occurs first, unless the parent and Richard Milburn Academy agree otherwise.
20 U.S.C. 1415(k)(3)(A); 34 C.F.R. 300.532(a); 19 TAC 89.1151.

Sec. 9. REPORTING CRIMES

Federal law does not prohibit Richard Milburn Academy from reporting a crime committed by a student with a disability to appropriate authorities. If Richard Milburn Academy reports a crime, Richard Milburn Academy shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom Richard Milburn Academy reported the crime. Richard Milburn Academy may transmit records only to the extent permitted by the Family Educational Rights and Privacy Act ("FERPA").*20 U.S.C. 1415(k)(6); 34 C.F.R. 300.535*.

Sec. 10. STUDENTS NOT YET IDENTIFIED

A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated the Student Code of Conduct may assert any of the protections provided for in the Individuals with Disabilities Education Act if Richard Milburn Academy had knowledge that the student had a disability before the behavior that precipitated that disciplinary action occurred. *20 U.S.C. 1415(k)(5)(A); 34 C.F.R. 300.534(a)*.

a) School Knowledge

Richard Milburn Academy shall be deemed to have knowledge that a student has a disability if, before the behavior that precipitated the disciplinary action occurred:

1. The parent of the student expressed concern in writing to Richard Milburn Academy supervisory or administrative personnel, or to the teacher of the student, that the student was in need of special education and related services;
2. The parent requested an evaluation of the student for special education and related services; or
3. The student's teacher, or other Richard Milburn Academy personnel, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the special education director or to other Richard Milburn Academy supervisory personnel.

20 U.S.C. 1415(k)(5)(B); 34 C.F.R. 300.534(b).

b) Exceptions

Richard Milburn Academy shall not be deemed to have knowledge that the student had a disability if:

1. The parent has not allowed an evaluation of the student;
2. The parent has refused services; or
3. The student has been evaluated and it was determined that the student did not have a disability.

20 U.S.C. 1415(k)(5)(C); 34 C.F.R. 300.534(c).

If Richard Milburn Academy does not have knowledge, before taking disciplinary measures, that a student has a disability, the student may be subjected to the same disciplinary measures applied to students without disabilities who engaged in comparable behaviors.

However, if a request is made for an evaluation during the time period in which the student is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

20 U.S.C. 1415(k)(5)(D); 34 C.F.R. 300.534(d).

PG. 6.12 DISTRICT AND CAMPUS IMPROVEMENT PLANS

It is the policy of Richard Milburn Academy to annually conduct a comprehensive needs assessment and to develop district and campus improvement plans, if required by state and federal funding requirements.

PG. 6.13 DYSLEXIA

Sec. 1. DYSLEXIA AND RELATED DISORDERS

The Board shall ensure that procedures for identifying and providing appropriate instructional services to students for dyslexia and related disorders are implemented by Richard Milburn Academy. These procedures shall be implemented in accordance with the most recently updated version of the State Board of Education's *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders* and its subsequent amendments ("the Dyslexia Handbook"). Richard Milburn Academy shall further ensure Richard Milburn Academy complies with all rules and standards adopted by the State Board of Education to implement the dyslexia program, including the Dyslexia Handbook and guidance published by the commissioner to assist Richard Milburn Academy in implementing the program. *Education Code 38.003(b) ; 19 TAC 74.28(b), (c).*

Sec. 2 REFERRALS

Anytime a child is suspected to have dyslexia or a related disorder and may need dyslexia intervention services, the LEA must seek parental consent for a Full Individual Initial Evaluation (FIIE) under the Individuals with Disabilities Education Act (IDEA). The process of seeking informed parental consent under the IDEA must include proper prior written notice and be accompanied by the notice of procedural safeguards.

If Richard Milburn Academy suspects or has a reason to suspect that a student may have dyslexia, including after evaluation or use of a reading diagnosis under Sections 28.006 or 38.003 of the Education Code, and that the student may be a child with a disability under the IDEA, Richard Milburn Academy must:

1. Seek parental consent for an FIIE under the IDEA and provide prior written notice and notice of procedural safeguards;

2. Provide to the student's parent or a person standing in parental relation to the student a form developed by the Texas Education Agency explaining the rights available under the IDEA that may be additional to the rights available under Section 504 of the Rehabilitation Act of 1973;
3. Comply with all federal and state requirements, including the Dyslexia Handbook, as adopted by the State Board of Education (SBOE), and its subsequent amendments, regarding any evaluation of the student; and
4. If the student is evaluated for dyslexia or a related disorder, also evaluate the student in any other areas in which the district suspects the student may have a disability.

Education Code 29.0031(a).

Sec. 3. IDENTIFICATION AND TESTING

A process for early identification, intervention, and support for students at risk for dyslexia and related disorders must be available, as outlined in the *Dyslexia Handbook*.

Richard Milburn Academy may not use early intervention strategies, including multi-tiered systems of support, to delay or deny the provision of a full and individual evaluation to a child suspected of having a specific learning disability, including dyslexia or a related disorder.

Sec 4. Evaluation Team and ARD Committee

The multidisciplinary evaluation team and any subsequent Admission, Review, and Dismissal ("ARD") committee convened to determine a student's eligibility for special education and related services as a child with dyslexia or a related disorder must include at least one member with specific knowledge regarding the reading process, dyslexia and related disorders, and dyslexia instruction. The member must:

1. Hold a licensed dyslexia therapist license under Chapter 403, Occupations Code;
2. Hold the most advanced dyslexia-related certification issued by an association recognized by the State Board of Education, and identified in, or substantially similar to an association identified in, the program rules adopted under Sections 7.102 and 38.003; or
3. If a person qualified under 1 or 2 above is not available, meet the applicable training requirements adopted by the State Board of Education pursuant to Sections 7.102 and 38.003.

The member of a multidisciplinary evaluation team or subsequent ARD committee convened to determine a student's eligibility for special education and related services as described above must sign a document describing the member's participation in the evaluation and any resulting Individualized Education Program (IEP) developed for the student.

Education Code 29.0031(b), (c); 19 TAC 74.28(h).

Sec 5. PERSONNEL QUALIFICATIONS

Teachers who provide dyslexia intervention for students are not required to hold a specific license or certification. However, these educators must at a minimum have additional documented dyslexia training aligned to 19 TAC §74.28(d) and must deliver the instruction with fidelity.

A provider of dyslexia instruction to students with dyslexia and related disorders must also be fully trained in Richard Milburn Academy's adopted instructional materials for students with dyslexia. The completion of a literacy achievement academy under Section 21.4552 of the Education Code by an educator who participates in the evaluation or instruction of students with dyslexia and related disorders does not satisfy this training requirement.

A provider of dyslexia instruction does not have to hold a certificate or permit in special education issued under Subchapter B, Chapter 21 of the Education Code, unless the provider is employed in a special education position that requires the certification.

Education Code 29.0032; 19 TAC 74.28(a)(5), (d).

Sec. 6. TREATMENT AND SERVICES

Richard Milburn Academy shall provide evidence-based dyslexia instruction by a provider of dyslexia instruction, as that term is used in Education Code 29.0032, for students with dyslexia or a related disorder that includes the required instructional and delivery components set forth in the *Dyslexia Handbook*.

19 TAC 74.28(d)

a) Reading Program

Richard Milburn Academy shall purchase or develop an evidence-based reading program for students with dyslexia and related disorders that is aligned with all instructional methods and components for dyslexia instruction as described in the *Dyslexia Handbook*.

b) Reassessment

Unless otherwise provided by law, a student determined to have dyslexia during testing or accommodated because of dyslexia may not be retested for dyslexia for the purpose of reassessing the student's need for accommodations until Richard Milburn Academy reevaluates the information obtained from previous testing of the student.

Education Code 38.003(b-1).

Sec. 7. REQUIRED PARENT INFORMATION

Richard Milburn shall provide parents information on:

1. characteristics of dyslexia and related disorders;
2. evaluation and identification of dyslexia and related disorders;
3. effective instructional strategies for teaching students with dyslexia and related disorders;
4. qualifications of and contact information for PDIs at each campus or school;
5. instructional accommodations and modifications;
6. the steps in the special education process, as described in the form developed by the TEA to comply with Education Code 29.0031(a)(1); and
7. how to request a copy and access the electronic version of the Dyslexia Handbook.

19 TAC 74.28(f).

Sec. 8. REPORTING

Richard Milburn Academy must report through the Public Education Information Management System to the TEA:

1. the results of the screening for dyslexia and related disorders required for each student in kindergarten and each student in first grade; and
2. the number of students enrolled who are identified as having dyslexia.

Sec. 9 Progress Reports

At least once each grading period, or more often if provided for in a student's IEP, Richard Milburn Academy must provide the parent of or person standing in parental relation to a student receiving dyslexia instruction with information regarding the student's progress as a result of receiving that instruction. *Education Code 29.0031(d).*

PG-6.14 ELIGIBILITY CRITERIA

Sec. 1. ELIGIBILITY CRITERIA

A student that is at least three years old but not more than 21 years of age may be eligible for special education and related services if the student is found to have a disability in one of the following categories, and by reason of disability, has need for special education and related services:

1. Autism
2. Deaf-Blindness
3. Deaf or Hard of Hearing
4. Emotional Disability
5. Intellectual Disability
6. Multiple Disabilities
7. Orthopedic Impairment.
8. Other Health Impairment;
9. Specific Learning Disability
10. Speech Impairment
11. Traumatic Brain Injury;
12. Visual Impairment
13. Developmental Delay

34 CFR 300.306(a)(5), 300.8; 19 TAC 89.1040(a).

Additionally, a student is eligible to participate in Richard Milburn Academy's special education program if the student is not more than 21 years of age and has a visual or auditory impairment that prevents the student from being adequately or safely educated in public school without the provision of special services. (TEX. EDUC. CODE § 29.003).

Sec. 2. DETERMINING ELIGIBILITY

Following the completion of the full and individual initial evaluation, the student's admission, review, and dismissal ("ARD") committee must make an eligibility determination. The ARD committee members reviewing evaluations and date to determine eligibility must include a licensed specialist in school psychology ("LSSP"), an educational diagnostician, or other appropriately certified or licensed practitioner with experience, and a licensed or certified professional for a specific eligibility category defined below. (19 TEX. ADMIN. CODE § 89.1040).

When interpreting evaluation data for the purpose of determining if a student is a student with a disability under 34 C.F.R. § 300.8, and the educational needs of the student, Richard Milburn Academy shall:

1. Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and
2. Ensure that information obtained from all of these sources is documented and carefully considered.

If a student is determined to be a student with a disability and needs special education and related services, the ARD committee must develop an individualized education program ("IEP") for the student in accordance with 34 C.F.R. §§ 300.320 - 300.324. and corresponding state law. (34 C.F.R. § 300.306).

A student must not be determined to be a child with a disability if:

1. The determinant factor for that determination is:
    a. lack of appropriate instruction in reading, including in the essential components of reading instruction;
    b. lack of appropriate instruction in math; or
    c. limited English proficiency/status as an emergent bilingual student; or
2. The child does not otherwise meet the eligibility criteria and 34 CFR 300.8(a).

34 CFR 300.306(b).

For children aged three through nine, or any subset of that age range, may be a child with a disability if the student is:

1. experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: Physical development, cognitive development, communication development, social or emotional development, or adaptive development; and
2. needs special education and related services. (34

C.F.R. § 300.8(b)).

Sec. 3. AUTISM

A student with autism is one that meets the criteria outlined in 34 C.F.R. § 300.8(c)(1) of the IDEA. It also includes students with pervasive developmental disorders. (19 TEX. ADMIN. CODE § 89.1040(c)(1)).

Under IDEA, autism is a developmental disability significantly affecting a student's verbal and nonverbal communication and social interactions that adversely affects a student's educational performance. Engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences are often associated with autism. Characteristics of autism are generally evident before age three. A child who manifests the characteristics of autism after age three could be identified as having autism if the student meets the above criteria also defined in 34 C.F.R. § 300.8(c)(1)(i).

A student does not meet the eligibility category for autism if a student's educational performance is adversely affected primarily because the student has an emotional disability, as defined above and in 34 C.F.R. § 300.8(c)(4). (34 C.F.R. § 300.8(c)(1)).

The determination of whether a student meets the criteria for autism as stated in 34 CFR 300.8(c)(1) cannot require that the student meets the requirements for a medical/psychological diagnosis of autism. The absence of other characteristics often associated with autism listed in 34 CFR 300.8(c)(1) does not exclude a student from meeting eligibility as a student with autism.

The written evaluation determining eligibility under autism must include specific recommendations for communication, social interaction, and behavior interventions and strategies. (19 TEX. ADMIN. CODE § 89.1040(c)(1)).

Sec. 4. DEAF-BLINDNESS

A student is eligible under deaf-blindness if identified with hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for students with deafness or students with blindness. (34 C.F.R. § 300.8(c)(2)).

In addition to the Individuals with Disabilities Education Act ("IDEA") requirements, a student may be eligible if a student is found to:

1. meet the eligibility criteria for auditory impairment specified in subsection 19 TEX. ADMIN. CODE § 89.1040(c)(3) and visual impairment specified in subsection 19 TEX. ADMIN. CODE § 89.1040 (c)(12);
2. meet the eligibility criteria for a student with a visual impairment and has a suspected hearing loss that cannot be demonstrated conclusively, but a speech/language therapist, a certified speech and language therapist, or a licensed speech language pathologist indicates there is no speech at an age when speech would normally be expected;
3. have documented hearing and visual losses that, if considered individually, may not meet the requirements for auditory impairment or visual impairment, but the combination of such losses adversely affects the student's educational performance; or
4. have a documented medical diagnosis of a progressive medical condition that will result in concomitant hearing and visual losses that, without the provision of special education services, will adversely affect the student's educational performance.

(19 TEX. ADMIN. CODE § 89.1040(c)(2).

Sec. 5. DEAF OR HARD OF HEARING

A student who is deaf or hard of hearing is one who has been determined to meet the criteria for

deafness as stated in 34 CFR 300.8(c)(3), or for students who have a hearing impairment, as stated in 34 CFR 300.8(c)(5).

The student's evaluation an audiological evaluation by a licensed audiologist and a communication assessment completed by the multidisciplinary team. The evaluation must include a description of the implications of the hearing loss for the student's hearing in a variety of circumstances with or without recommended hearing assistive technology.

A child under three years of age meets the criteria for deaf or hard of hearing if the student's record indicates that the child is experiencing a developmental delay because of hearing loss or impairment, or the child has a physical or mental condition that has a high probability of resulting in a developmental delay and a sensory impairment, in accordance with 34 CFR 303.21

(34 C.F.R § 300.8(c)(5); 19 TEX. ADMIN. CODE § 89.1040(c)(3)).

Sec. 6. EMOTIONAL DISABILITY

A student with an emotional disability is one who has been determined to meet the criteria for emotional disturbance as stated in 34 CFR 300.8(c)(4). The term emotional disability is synonymous with the term emotional disturbance and serious emotional disturbance, as these terms are used in federal or state law pertaining to students eligible for special education and related services.

A student may be eligible for services as a student with an emotional disability if they exhibit one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

1. An inability to learn that cannot be explained by intellectual, sensory, or health factors;
2. An inability to build or maintain satisfactory interpersonal relationships with peersand teachers;
3. Inappropriate types of behavior or feelings under normal circumstances;
4. A general pervasive mood of unhappiness or depression; or
5. A tendency to develop physical symptoms or fears associated with personal or school problems.

Emotional disability includes schizophrenia, but does not include children who are socially maladjusted, unless it is determined that they have an emotional disability. A written evaluation must include specific recommendations for positive behavioral supports and interventions. (34 C.F.R. § 300.8(c)(4); 19 TEX. ADMIN. CODE § 89.1040(c)(4)).

Sec. 7. INTELLECTUAL DISABILITY

A student qualifies as a student with an intellectual disability if the student has significantly sub- average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a student's educational performance. (34 C.F.R. § 300.8(c)(6); 19 TEX. ADMIN. CODE § 89.1040(c)(5)).

Sec. 8. MULTIPLE DISABILITIES

A student may qualify as a student with multiple disabilities if they are identified to have a combination of impairments (such as intellectual disability-blindness or intellectual disability- orthopedic impairment) and the combination causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness. (34 C.F.R. § 300.8(c)(7)).

The impairments must be: (a) expected to continue indefinitely; and (b) and the impairments must severely limit performance in two or more of the following:

1. psychomotor skills;
2. self-care skills;
3. communication;
4. social and emotional development, or
5. cognition.

A student who qualifies for more than one impairment, that does not severely impair performance in one of the above categories, or is not expected to continue indefinitely, does not qualify as a student with multiple disabilities. (19 TEX. ADMIN. CODE § 89.1040(c)(6)).

Sec. 9. ORTHOPEDIC IMPAIRMENT

A severe orthopedic impairment, including impairments caused by congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures). If the impairment adversely impacts a student's educational performance, the student is eligible under this category. (34 C.F.R. § 300.8(c)(8); 19 TEX. ADMIN. CODE § 89.1040(c)(7).

A student's eligibility based on an orthopedic impairment must include a medical diagnosis provided by a licensed physician.

19 TAC 89.1040(c)(7).

Sec. 10. OTHER HEALTH IMPAIRMENT ("OHI")

A student with-OHI is one who has been determined to meet the criteria for OHI due to chronic or acute health problems.

19 TAC 89.1040(c)(8).

OHI means having limited strength, vitality, or alertness that adversely affects a child's educational performance.

34 CFR 300.8(c)(9)(i).

The term "health problems" includes:

1. Asthma;
2. Attention Deficit Disorder or Attention Deficit Hyperactivity Disorder;

3. Diabetes;
4. Epilepsy;
5. Heart Condition;
6. Hemophilia;
7. Lead poisoning;
8. Leukemia;
9. Nephritis;
10. Rheumatic Fever;
11. Sickle Cell Anemia; or
12. Tourette Syndrome.

19 TAC 89.1040(c)(8); 34 CFR 300.(c)(9)(i).

"Limited alertness" includes a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment.

34 CFR 300.8(c)(9).

A student's eligibility based on other health impairment must include identification or confirmation of the student's chronic or acute health problem provided by a licensed physician, physician assistant, or an advanced practice registered nurse with authority delegated under Texas Occupations Code, Chapter 157.

19 TAC 89.1040(c)(8).

Sec. 11.. SPECIFIC LEARNING DISABILITY

Specific learning disability (or "SLD" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations.

SLD includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. (34 C.F.R. § 300.8(c)(10)).

A specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disability, or of environmental, cultural, or economic disadvantage.

34 CFR 300.8(c)(10); 19 TAC 89.1040(c)(9).

A student with a specific learning disability is one who:

1. Has been determined through a variety of assessment tools and strategies, in accordance with 34 CFR 300.307-300.111, to have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations;

2. when provided with learning experiences and instruction appropriate for the student's age or state-approved grade-level standards as indicated by performance on multiple measures such as in-class tests, grade average over time (e.g. six weeks or semester), repeated performance on progress monitoring measures, norm- or criterion-referenced tests, and statewide assessments, does not achieve adequately for the student's age or to meet state-approved grade-level standards in one or more of the following areas:
    a. mathematical calculations;
    b. oral expression;
    c. listening comprehension;
    d. written expression, which may include dysgraphia;
    e. basic reading skill, which may include dyslexia;
    f. reading fluency skills, which may include dyslexia;
    g. reading comprehension;
    h. mathematics calculation; or
    i. mathematics problem solving;

3. meets one of the following criteria:
    a. does not make sufficient progress to meet age or state-approved grade-level standards in one or more of the areas identified in subparagraph 2(a)-(i) when using a process based on the student's response to scientific, research-based intervention; or
    b. exhibits a pattern of strengths and weaknesses in performance, achievement, or both relative to age, state-approved grade-level standards, or intellectual development that is determined to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with 34 CFR 300.304 and 300.305; and

4. does not meet the findings set forth in subparagraphs 1-3 primarily as the result of:
a. a visual, hearing, or motor disability;
b. an intellectual disability;
c. emotional disability;
d. cultural factors;
e. environmental or economic disadvantage; or
f. being emergent bilingual.

The presence of a significant variance among specific areas of cognitive function or between specific areas of cognitive function and academic achievement is not required when determining whether a student has a significant learning disability.
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Richard Milburn Academy's evaluation must also show that the student:

1. does not make sufficient progress when provided a process based on the student's response to scientific, research-based intervention (as defined in 20 U.S.C. § 7801(37)), as indicated by the student's performance relative to the performance of the student's peers on repeated, curriculum-based assessments of achievement at reasonable intervals, reflecting student progress during classroom instruction; or
2. the student exhibits a pattern of strengths and weaknesses in performance, achievement, or both relative to age, state-approved grade-level standards, or intellectual development that is determined to be relevant to the identification of a specific learning disability, using appropriate

assessments, consistent with 34 CFR 300.304 and 300.305.

Richard Milburn Academy must ensure that underachievement by a student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or mathematics. To do so, Richard Milburn Academy shall consider:

1. data that demonstrates the student was provided appropriate instruction in reading (as described in 20 United States Code 6368(3)), and/or mathematics within general education settings delivered by qualified personnel; and
2. data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal evaluation of student progress during instruction, which must be provided to the student's parents. Data-based documentation of repeated assessments may include, but is not limited to, intervention progress monitoring results and reports, in-class tests on grade-level curriculum, or other regularly administered assessments. Intervals are considered reasonable if consistent with the assessment requirements of a student's specific instructional program.

Richard Milburn Academy shall also ensure that the student is observed in the student's learning environment, including the general education classroom setting, to document the student's academic performance and behavior in the areas of difficulty.

In determining whether a student has a specific learning disability, the multidisciplinary team shall decide to either:

1. use information from an observation in routine classroom instruction and monitoring of the student's performance that was conducted before the student was referred for an evaluation; or
2. have at least one of the members described in 19 TAC 89.1040(b) or 89.1040(c)(9)(F) conduct an observation of the student's academic performance in the general education classroom after the student has been referred for an evaluation and Richard Milburn Academy has obtained parental consent consistent with 34 CFR, 300.300(a).

In the case of a student of less than school age or out of school, a member described in 19 TAC 89.1040(b) or 89.1040(c)(9)(F) must observe the student in an environment appropriate for a student of that age.

The determination of whether a student suspected of having a specific learning disability is a child with a disability as defined in 34 CFR 300.8, must be made by the student's parents and a team of qualified professionals, which must include at least one person qualified to conduct individual diagnostic examinations of children such as a licensed specialist in school psychology/school psychologist, an educational diagnostician, a speech-language pathologist, or a remedial reading teacher and one of the following:

1. the student's general education teacher;
2. if the student does not have a general education teacher, a general education classroom teacher qualified to teach a student of his or her age; or
3. for a student of less than school age, an individual qualified by the Texas Education Agency to teach a student of his or her age.

19 TAC 89.1040(c)(9).

For more information concerning SLD as it relates to dyslexia and related disorders, see PG.-6.13.

Sec. 12. SPEECH IMPAIRMENT

A communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance. The evaluation team shall include a certified speech and hearing therapist, a certified speech and language therapist, or a licensed speech/language pathologist. (34 C.F.R. § 300.8(c)(11); 19 TEX. ADMIN. CODE § 89.1040(c)(10)).

Sec. 13. TRAUMATIC BRAIN INJURY

An acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

A student's eligibility based on a traumatic brain injury must include a medical diagnosis provided by a licensed physician.

34 CFR 300.8(c)(12); 19 TAC 89.1040(c)(11).

Sec. 14. VISUAL IMPAIRMENT

A child with a visual impairment is one who has been determined to meet the criterial for visual impairment.

The term "visual impairment including blindness" means an impairment in vision that, even with correction, adversely affects the student's educational performance and includes both partial sight and blindness.

A child under three years of age meets the criteria for visual impairment if the child's record indicates that the child is experiencing a developmental delay because of vision loss or impairment, or the child has a physical or mental condition that has a high probability of resulting in a developmental delay and a sensory impairment, in accordance with 34 CFR 303.21.

34 CFR 300.8(c)(13); 19 TAC 89.1040(c)(12).

Evaluation, eligibility, and ARD committee requirements shall adhere to federal and state law.

A person who is appropriately certified as an orientation and mobility specialist must participate in an initial eligibility determination and any reevaluation as part of the multidisciplinary team, in

accordance with 34 CFR 300.122 and 300.303-300.311, in evaluating data used to make the determination of the student's need for specially designed instruction.

Information from a variety of sources must be considered by the multidisciplinary team that collects or reviews evaluation data in connection with the determination of a student's eligibility based on visual impairment in order to determine the need for specially designed instruction as stated in 34 CFR 300.39(b)(3), and must include:

1. a medical report by a licensed ophthalmologist or optometrist that indicates the visual loss stated in exact measures of visual field and corrected visual acuity, at a distance and at near range, in each eye. If exact measures cannot be obtained, the eye specialist must so state and provide best estimates. The report should also include a diagnosis and prognosis whenever possible and whether the student has:
    a. no vision or visual loss after correction; or
    b. a progressive medical condition that will result in no vision or a visual loss after correction;
2. a functional vision evaluation by a certified teacher of students with visual impairments or a certified orientation and mobility specialist. The evaluation must include the performance of tasks in a variety of environments requiring the use of both near and distance vision and recommendations concerning the need for a clinical low vision evaluation;
3. a learning media assessment by a certified teacher of students with visual impairments. The learning media assessment must include recommendations concerning which specific visual, tactual, and/or auditory learning media are appropriate for the student and whether or not there is a need for ongoing evaluation in this area; and
4. as part of the full individual and initial evaluation, an orientation and mobility evaluation conducted by a person who is appropriately certified as an orientation and mobility specialist. The orientation and mobility evaluation must be conducted in a variety of lighting conditions and in a variety of settings, including in the student's home, school, and community, and in settings unfamiliar to the student.

34 CFR 300.8(c)(13); Education Code 30.002(c-1); 19 TAC 89.1040(c)(12).

Sec. 15. DEVELOPMENTAL DELAY

Richard Milburn Academy is not required to use the eligibility category of developmental delay; however, if Richard Milburn Academy chooses to use this eligibility category, the definition and criteria set forth in this paragraph shall apply.

A student with developmental delay is one who is between the ages of 3-9 who is evaluated by a multidisciplinary team for at least one disability category listed in Sections 3-14 of this Policy and whose evaluation data indicates a need for special education and related services and shows evidence of, but does not clearly confirm, the presence of the suspected disability or disabilities due to the child's young age.

In these cases, an ARD committee may determine that data supports identification of developmental

delay in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development.

To use this eligibility category, multiple sources of data must converge to indicate the student has a developmental delay as described by one of the following:

1. performance on appropriate norm-referenced measures, including developmental measures, indicate that the student is at least 2 standard deviations below the mean or at the 2nd percentile of performance, when taking into account the standard error of measurement (SEM), in one area of development as listed in this Section, along with additional convergent evidence such as interviews and observation data that supports the delay in that area;
2. performance on appropriate norm-referenced measures, including developmental measures, indicate that the student is at least 1.5 standard deviations below the mean or at the 7th percentile of performance, when taking into account the SEM, in at least two areas of development as listed in this Section, along with additional convergent evidence such as interviews and observation data that supports the delays in those areas; or
3. a body of evidence from multiple direct and indirect sources, such as play-based assessments, information from the student's parent, interviews, observations, work samples, checklists, and other informal and formal measures of development, that clearly document a history and pattern of atypical development that is significantly impeding the student's performance and progress across settings when compared to age-appropriate expectations and developmental milestones in one or more areas of development as listed in this Section.

19 TAC 89.1040(c)(13), (d).

PG-6.15 REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES

Sec. 1. REFERRAL FOR FULL AND INDIVIDUAL INITIAL EVALUATION

Referral of students for a full and individual initial evaluation ("FIIE") for possible special education services and related services shall be a part of Richard Milburn Academy's multi-tiered system of academic and behavioral supports. The student's parents or legal guardian, school personnel, or another person involved in the education or care of the student may initiate a referral or request for an FIIE at any time. Richard Milburn Academy will continue to provide the student any necessary interventions and support services to target their academic or behavioral needs while an FIIE is being conducted.

19 TAC 89.1011(a).

a) Obligation to Refer

Students not making progress in the general education classroom in the general classroom should be considered for all interventions and support services available to all students, such as tutorial; compensatory; response to evidence-based intervention; and other academic or behavior support services. Richard Milburn Academy cannot require a student to participate in interventions and support services for any specific length of time prior to a referral being made or an FIIE being conducted. If the

student continues to experience difficulty in the general education classroom with the provision of interventions and support services or at any time Richard Milburn Academy personnel suspect a disability and a possible need for special education and related services, <<School Name>> personnel must refer the student for an FIIE.

20 U.S.C. 1414(a)(1); 34 CFR 300.301; 19 TAC 89.1011(a).

b) Parent or adult student Request

If a parent submits a written request for an FIIE to Richard Milburn Academy's director of special education services or to a Richard Milburn Academy administrative employee, such as a campus principal, Richard Milburn Academy shall, not later than the 15th school day after the date Richard Milburn Academy receives the request:

1. Provide the parent with prior written notice of its proposal to conduct an evaluation consistent with 34 CFR 300.503, a copy of the procedural safeguards notice required by 34 CFR 300.504, a copy of the Texas Education Agency's ("TEA") Overview of Special Education for Parents form, and an opportunity to give written consent for the evaluation; or
2. Provide the parent with prior written notice of its refusal to conduct an evaluation consistent with 34 CFR 300.503, a copy of the Texas Education Agency's ("TEA") Overview of Special Education for Parents form, and a copy of the procedural safeguards notice required by 34 CFR 300.504.

20 U.S.C. 1414(a)(1); 34 C.F.R. 300.301; 19 TAC 89.1011 (b); Education Code 29.004(c).

a) *District Referral*

When Richard Milburn Academy initiates a referral for an FIIE, Richard Milburn Academy shall provide the parent with prior written notice of its proposal to conduct an evaluation consistent with 34 CFR 300.503, a copy of the procedural safeguards notice required by 34 CFR 300.504, a copy of TEA's Overview of Special Education for Parents form, and an opportunity to give written consent for the evaluation.

19 TAC 89.1011(c).

Sec. 2. NOTICE OF RIGHTS

Richard Milburn Academy shall provide written notice to a student's parent or guardian within a reasonable time before proposing or refusing to initiate the identification, evaluation, or educational placement of a student or the provision of a free appropriate public education ("FAPE"). 20 U.S.C. § 1415(b)(3); 34 C.F.R. § 300.503(a).

Sec. 3. INITIAL EVALUATION

Richard Milburn Academy shall conduct an FIIE before the initial provision of special education and related services. 20 U.S.C. § 1414(a)(1)(A).

Richard Milburn Academy shall ensure that evaluations of children who transfer from one district to another

in the same academic year are coordinated with the children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations. 20 U.S.C. § 1414(b)(3)(D).

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. 20 U.S.C. § 1414(a)(1)(E).

a) Consent for Initial Evaluation

Richard Milburn Academy shall make reasonable efforts to obtain informed parental consent before conducting an initial evaluation unless the student is an adult and does not have a Power of Attorney or guardianship in place. At that time the adult student could provide initial consent.

If the parent does not provide consent for an initial evaluation or fails to respond to a request to provide consent, Richard Milburn Academy may—but is not required to—pursue the initial evaluation by utilizing due process procedures, except to the extent inconsistent with state law relating to such parental consent.

Parental consent to initial evaluation shall not be construed as consent for placement for special education and related services. 20 U.S.C. § 1414(a)(1)(D)(i)(1); 34 C.F.R. § 300.300.

b) Wards of the State

If the child is a ward of the state and is not residing with the child's parent, Richard Milburn Academy shall make reasonable efforts to obtain the informed consent from the parent for an initial evaluation, unless:

1. Richard Milburn Academy cannot discover the whereabouts of the parent, despite reasonable efforts to do so;
2. The rights of the parent have been terminated; or
3. The rights of the parent to make educational decisions have been subrogated and an individual appointed by a judge to represent the student has given consent for an initial evaluation.

20 U.S.C. § 1414(a)(1)(D)(iii); 34 C.F.R. § 300.300(a)(2).

Sec. 4. NOTIFICATION TO PARENTS REGARDING INTERVENTION STRATEGIES

Each school year, Richard Milburn Academy shall notify a parent of each child or adult student, other than a child or adult student enrolled in a special education program, who receives assistance from the Richard Milburn Academy for learning difficulties, including through the use of intervention strategies that Richard Milburn Academy provides to the child or adult student. The notice must:

1. Be provided when the child or adult student begins to receive the assistance for that school year;
2. Be written in English or, to the extent practicable, the parent's or adult student's native language; and
3. Include:
   a. A reasonable description of the assistance that may be provided to the child or adult student, including any intervention strategies that may be used;
   b. Information collected regarding any intervention in the base tier of a multi-tiered system of supports that has previously been used with the child or adult student;

c. An estimate of the duration for which the assistance, including through the use of intervention strategies, will be provided;

d. The estimated time frames within which a report on the child's or adult student's progress with the assistance, including any intervention strategies used, will be provided to the parent or adult student; and

e. A copy of a written explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education. The explanation must state that a parent or adult student is entitled at any time to request an evaluation of the parent's child or adult student for special education services or for aids, accommodations, or services under Section 504 of the Rehabilitation Act.

The notice under this policy may be provided to a child's parent or adult student at a Section 504 meeting.

Education Code 26.0081.

Sec. 5. Right to Inspect and Review Education Records

A parent or adult student is entitled to access to all written records of Richard Milburn Academy concerning the parent's child or adult student, including attendance records, test scores, grades, disciplinary records, counseling records, psychological records, applications for admission, health and immunization information, teacher and school counselor evaluations, reports of behavioral patterns, and records relating to assistance provided for learning difficulties, including information collected regarding any intervention strategies used with the child or adult student.

Education Code 26.004(b)(1).

PG-6.16 EVALUATION

Sec. 1. IDEA Evaluations and Reevaluations

All evaluations and eligibility determinations shall be made in accordance with the Individuals with Disabilities Education Act ("IDEA"), the Texas Education Code, and their implementing regulations.

Sec. 2. FULL AND INDIVIDUAL EVALUATION (FIE)

Richard Milburn Academy shall ensure that upon completion of the administration of such tests and other evaluation materials administered according to the evaluation procedures of the Individuals with Disabilities Education Act ("IDEA"), and preparation of the written report, the admission, review and dismissal ("ARD") committee determines if the student is a student with a disability under state and federal standards.

Richard Milburn Academy shall conduct a full and individual initial evaluation ("FIE") prior to providing special education and related services to any student. All students must be evaluated in accordance with the IDEA and the Texas Education Code.

Richard Milburn Academy shall have procedures in place to ensure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of students with disabilities are selected and administered so as to not be racially, culturally, or gender discriminatory. Assessment and procedures shall be provided and administered in the student's native language or most proficient mode of

communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so. (34 C.F.R. § 300.301; TEX. EDUC. CODE § 29.310).

All implementing assessment procedures must differentiate between language proficiency and handicapping condition. Additionally, placement procedures must ensure that placement in a bilingual education or English as a second language program is not refused solely because the student has a disability. (19 TEX. ADMIN. CODE § 89.1230).

No single procedure shall be the sole criterion for determining whether a student is a student with a disability or for determining an appropriate education program for a student with a disability. The evaluation must be sufficiently comprehensive to identify all of the student's special education and related services' needs. Each student must be evaluated in all suspected areas of disability. (34 C.F.R. §§ 300.301 and 300.304; TEX. EDUC. CODE § 29.310).

All assessments must be administered in accordance with the instructions provided and by a trained and knowledgeable person. (34 C.F.R. §§ 300.301 and 300.304).

Sec. 3. TIMELINE

If a student's parent or adult student provides a written request for an evaluation to the school's director of special education services or to a district administrative employee, Richard Milburn Academy shall, within 15 school days, (1) provide the parent with prior written notice of its proposal to conduct an evaluation, a copy of the procedural safeguards, a copy of the Texas Education Agency's ("TEA") Overview of Special Education for Parents form, and an opportunity to give written consent for the evaluation, or (2) provide prior written notice and procedural safeguards if the school is denying the request for evaluation. (TEX. EDUC. CODE § 29.004(c)*; 19 TAC 89.1011.*).

A written FIE report must be completed not later than the 45th school day following the date on which Richard Milburn Academy receives written consent for the evaluation, signed by the student's parent or adult student. If the student is absent three or more days in that time period, the timeline must be extended by the number of days the student was absent. (TEX. EDUC. CODE § 29.004(a)).

This time frame shall not apply if:

1. A student enrolls in the current school after the relevant time frame has begun and before the previous school makes a determination as to whether the student has a disability, but only if the current school is making sufficient progress to ensure a prompt completion of the evaluation and the parent or adult student and current school agree to a specific time for completion of the evaluation; or
2. The parent or adult student repeatedly fails or refuses to produce the student for the evaluation. (34 C.F.R. § 300.301(d)).

Following the completion of the FIE, the ARD committee must meet within 30 calendar days from the date of completion to review and determine eligibility. (TEX. EDUC. CODE § 29.004).

If the 30th day falls during the summer and school is not in session, the student's ARD committee must meet within not later than the fifteenth (15^{th}) school day of the following school year. If an evaluation report indicates that a student may need extended school year ("ESY") services, however, the ARD committee must meet as expeditiously as possible.

19 TAC 89.1011(g)

If the student is an English language learner, the language proficiency assessment committee (LPAC) must also attend the meeting to determine services. (19 TEX. ADMIN. CODE § 89.1050(c)(1)(J)).

If Richard Milburn Academy receives written consent for an FIE from a student's parent or adult student at least 35 but less than 45 school days before the last instructional day of the school year, the evaluation must be completed and the written report of the evaluation must be provided to the parent or adult student not later than June 30 of that year. The ARD committee must meet by the 15th school day of the following school year to consider the evaluation.

If Richard Milburn Academy receives written consent signed by a student's parent or adult student less than 35 school days before the last instructional day of the school year or if the school receives the written consent at least 35 but less than 45 school days before the last instructional day of the school year but the student is absent from school during that period on three or more days, the FIE must be completed not later than the 45th school day after receiving consent.

School days do not include days following the last instructional day of the spring term and before the first day of the fall term.

(TEX. EDUC. CODE § 29.004).

A copy of the written evaluation report must be provided to the student's parent(s) as soon as possible after its completion but no later than five (5) school days prior to the initial ARD committee meeting. For exceptions concerning this timeline, please see 19 TAC 89.1011(e)(1).

19 TAC 89.1011(e).

Sec. 4. SPECIFIC LEARNING DISABILITY EVALUATION

TEA cannot require Richard Milburn Academy to use the severe discrepancy between intellectual ability and achievement for determining whether a student has a specific learning disability. TEA must permit the use of a process based on the child's response to scientific, research-based intervention; and may permit the use of other alternative research-based procedures for determining whether a student has a specific learning disability.
(34 C.F.R. § 300.307).

The evaluation process for specific learning disability includes an observation of the child in the learning environment, including the regular classroom setting, to document academic performance and behavior in the areas of difficulty. *34 C.F.R. § 300.310 (a).*

Sec. 5. FUNCTIONAL BEHAVIOR ASSESSMENT (FBA*)*

A functional behavior assessment ("FBA") may be necessary for a student whose behavior impedes their education or that of others. Prior to completing an FBA, Richard Milburn Academy shall get consent from the parent or adult student. *(34 C.F.R. §§ 300.9; 300.324(a)(2)(i)/)*

If a disciplinary change of placement is proposed but it is determined that the behavior is a manifestation of the child's disability, an FBA must be conducted as required by state and federal law. i

34 CFR 300.350(f); TEC 37.004(b-1).

Sec. 6. REVIEW OF EXISTING EVALUATION DATA (REED)

A Review of Existing Evaluation Data (REED) is required as part of an initial evaluation, if appropriate, and as part of any reevaluation. The REED must be conducted by the admission, review, and dismissal ("ARD") committee members and other qualified professionals, as appropriate. The ARD committee members may conduct the review without a meeting.

The REED must include a review of the following:

- Evaluations and information provided by the parents of the student;
- Current classroom-based, local, or State assessments, and classroom-based observations; and
- Observations by teachers and related services providers.

On the basis of that review, and input from the student's parents or adult student, the ARD committee members must identify what additional data, if any, are needed to determine:

- Whether the student is a student with a disability, and the educational needs of the student, or, in case of a reevaluation of a student, whether the student continues to have such a disability and the educational needs of the student;
- Whether the student needs special education and related services, or in the case of a reevaluation of a student, whether the student continues to need special education and related services;
- The present levels of academic achievement and related developmental needs of the student; and
- Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student and to participate, as appropriate, in the general education curriculum.

Richard Milburn Academy shall administer any assessments or other evaluation measures needed to produce the data identified by the REED in accordance with applicable procedural requirements regarding notice and consent.

If additional data is not needed, the ARD committee must notify the parent of the determination decision and provide information about the parent's right to request additional assessments to determine student needs and eligibility. (34 C.F.R. § 300.305).

Richard Milburn Academy shall conduct a reevaluation of the student if the school determines that the educational or related service needs, including improved academic achievement and functional performance, of the child warrant a reevaluation or if the child's parent or teacher requests a reevaluation. A reevaluation may not occur more than once per year, unless agreed to by the school and the parent. A reevaluation must occur at least every three years, unless the school and parent agree the evaluation is unnecessary. (34 C.F.R. § 300.303).

Sec. 7. CHANGE IN ELIGIBILITY

Richard Milburn Academy shall evaluate a student with a disability before determining a student is no longer eligible for special education and related services.

An evaluation is not required if a student is no longer eligible due to graduation or exceeding the age eligibility in Texas. Richard Milburn Academy shall create a summary of performance and include

recommendations on how to assist the student in meeting postsecondary goals. (34 C.F.R. § 300.305(e)).

Sec. 8. CONSIDERATION OF SERVICES PROVIDED IN REGULAR EDUCATION SETTING

To ensure that underachievement in the student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group of qualified professionals, as part of a full and individual evaluation, must consider:

- Data that demonstrate that prior to, or as part of, the referral process, the student was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
- Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of progress during instruction, which was provided to the student's parents. (34 C.F.R. § 300.309(b)).

Sec. 9. COORDINATION OF EVALUATIONS WITH PRIOR AND SUBSEQUENT SCHOOLS

The school shall ensure that evaluations of students who transfer from one local education agency to another in the same academic year are coordinated with the student's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations. (20 U.S.C. § 1414(b)(3)(D)).

Sec. 10. PSYCHOLOGICAL EXAMINATIONS AND TESTS

On request of a child's parent, before obtaining the parent's consent for the administration of any psychological examination or test to the child as part of the evaluation of the child's need for special education, Richard Milburn Academy shall provide to the child's parent:

1. The name and type of the examination or test; and
2. An explanation of how the examination or test will be used to develop an appropriate IEP for the child.

If Richard Milburn Academy determines that an additional examination or test is required for the evaluation of a child's need for special education, Richard Milburn Academy shall provide the information above to the parent or adult student regarding the additional examination or test and shall obtain additional consent for the examination of test. TEX. EDUC. CODE § 29.0041(a), (b).

If Richard Milburn Academy determines that an additional examination or test is required for the evaluation, Richard Milburn Academy shall provide the information required by TEX. EDUC. CODE § 29.0041(a) and shall obtain parental or adult student consent. If a parent or adult student does not give consent within 20 calendar days after the School provides the information, the parent's or adult student's consent is considered denied.

The time required for Richard Milburn Academy to provide information and seek consent may not be counted toward the timeframe for completion of an evaluation. TEX. EDUC. CODE § 29.0041.

Sec. 11. EXTENSION OF TIMELINES

For a specific learning disability, the timelines for evaluation under this policy may be extended by mutual written agreement of the student's parents and the ARD committee. (34 C.F.R. § 300.309(c)).

Sec. 12. EVALUATION CONDUCTED PURSUANT TO A SPECIAL EDUCATION DUE PROCESS HEARING

A special education hearing officer in an impartial due process hearing brought under 20 U.S.C. § 1415 may issue an order or decision that authorizes one or more evaluations of a student who is eligible for, or who is suspected as being eligible for, special education services. Such an order or decision authorizes the evaluation of the student without parental consent as if it were a court order for purposes of any State or federal law providing for consent by order of a court. (TEX. EDUC. CODE § 29.016).

Sec. 13. INDEPENDENT EDUCATIONAL EVALUATIONS

The parent of a student with a disability has the right to obtain an independent educational evaluation ("IEE") of the parent's child if the parent disagrees with the evaluation of the student that was obtained by Richard Milburn Academy.

If the parent requests an IEE, Richard Milburn Academy must provide the parent with information about where the parent may obtain an IEE and about Richard Milburn Academy's criteria that apply to IEE.

Sec. 14. DEFINITIONS

An IEE means an evaluation conducted by a qualified examiner who is not employed by the school responsible for the education of a student.

Public expense means that Richard Milburn Academy either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with the provisions of Part B of IDEA, which allow each State to use whatever State, local, Federal, and private sources of support are available in the State to meet the requirements of Part B ofIDEA.
(34 C.F.R. § 300.502).

Sec. 15. RIGHT TO EVALUATION AT PUBLIC EXPENSE

The parent has the right to request an IEE of the parent's child at public expense if the parent disagrees with an evaluation of the student completed by Richard Milburn Academy.

If the parent requests an IEE, Richard Milburn Academy must respond to the parent by either:

1. without unnecessary delay, file a due process complaint to request a hearing to show that its evaluation of the student is appropriate; or
2. provide an IEE at public expense, unless Richard Milburn Academy demonstrates in a due process hearing that the evaluation of the student that the parent obtained did not meet Richard Milburn Academy's criteria.

If Richard Milburn Academy requests a hearing and the final decision is that Richard Milburn Academy's evaluation of the student is appropriate, the parent still has the right to an IEE, but not at public expense.

If the parent requests an IEE of the student, Richard Milburn Academy may ask why the parent objects to the evaluation of the student obtained by Richard Milburn Academy; however, Richard Milburn Academy may not require an explanation and may not unreasonably delay either providing the IEE of the student at public expense or filing a due process complaint to request a due process hearing to defend Richard Milburn Academy's evaluation of the student.

The parent is entitled to only one IEE of the student at public expense each time Richard Milburn Academy conducts an evaluation of the student with which the parent disagrees. (34 C.F.R. § 300.502).

a) Parent or Adult Student-Initiated Evaluations

If the parent or adult student obtains an IEE of the student at public expense or the parent shares with Richard Milburn Academy an evaluation of the student that the parent or adult student obtained at private expense:

1. Richard Milburn Academy must consider the results of the evaluation of the student, if it meets Richard Milburn Academy's criteria for IEE, in any decision made with respect to the provision of a free appropriate public education to the student; and
2. the parent or adult student or Richard Milburn Academy may present the evaluation as evidence at a due process hearing regarding the student.

(34 C.F.R. § 300.502).

b) Requests for Evaluations by Hearing Officers

If a hearing officer requests an IEE of the student as part of a due process hearing, the cost of the evaluation must be at public expense.

Sec. 16. CRITERIA FOR OBTAINING IEE AT PUBLIC EXPENSE

The criteria under which the IEE is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an IEE.

a) Location

The evaluator conducting an IEE of a child with a disability at public expense must be located within a 100-mile radius of Richard Milburn Academy. This will allow the evaluator access to Richard Milburn Academy for observation of the student and access to the student's cumulative and special education eligibility folders.

b) Cost

Parents or adult student are free to select whomever they choose to perform the IEE, so long as the examiner meets Richard Milburn Academy's criteria. Richard Milburn Academy will pay a fee for an IEE that allows a parent to choose from among qualified professionals in the area.

Richard Milburn Academy will not pay unreasonably excessive fees. An unreasonably excessive fee is one which is 20% above the prevailing fees in the area as established by the Medicaid/Medicare Service Provider Manual for the specific test being considered.

Parents or adult student will be offered the opportunity to demonstrate to their child's ARD committee that unique circumstances exist which justify an IEE that does not meet Richard Milburn Academy criteria outlined in this document.

When evaluators have a sliding scale fee based on parent income, Richard Milburn Academy will pay the amount charged to the parent if the evaluator meets Richard Milburn Academy criteria or Richard Milburn

Academy has approved the IEE that does not meet Richard Milburn Academy criteria.

In the event a parent or adult student pursues an IEE independently or pursues an IEE provider that is not on Richard Milburn Academy independent evaluator list, Richard Milburn Academy will determine if the evaluator meets Richard Milburn Academy criteria prior to authorizing payment or reimbursement. If payment will be authorized, an original billing form and an original written report with original signature must be submitted to Richard Milburn Academy prior to payment.

Richard Milburn Academy will deny payment for an IEE conducted by an evaluator who does not meet Richard Milburn Academy criteria. Richard Milburn Academy will deny payment for an IEE that does not meet TEA criteria for the specific disability identified.

If a hearing officer requests an IEE as part of a hearing on a due process complaint, the cost of the evaluation must be at public expense.

Travel costs for evaluators will not exceed Richard Milburn Academy rates for travel as established by state guidelines.

A contract for an IEE between an evaluator and Richard Milburn Academy will not exceed one year. All terms will become void after the expiration date of one year.

c) Evaluator Criteria

The evaluator conducting the IEE must meet Richard Milburn Academy criteria and possess comparable credentials to the examiner that conducted the evaluation that is in dispute.

Evaluators must possess current licensure/certification to conduct the evaluation and must provide copies of his or her license or certification with the evaluation, if not previously provided.

Evaluators must comply with all requirements specified in state and federal law, including those outlined in the professional board responsible for providing the license or certification.

Evaluators must meet the examiner qualifications for the tests administered as outlined by the test producer.

The evaluator will have access to the student's cumulative folder and special education folders in gathering information about the student.

The evaluator will have the ability to interview teachers and observe the student in the educational setting.

Prior to conducting the assessment, the evaluator agrees to submit to a national criminal history review and to provide any and all information necessary to secure the national criminal history review, including fingerprints and photographs, or other information required by Educ. Code 22.0834 concerning Contractor or Contractor's Subcontractors.

The evaluator agrees to conduct a thorough evaluation in the area(s) performed by Richard Milburn Academy with which the parent or adult student disagrees.

Copies of protocols must be provided to Richard Milburn Academy.

The report must comply with all federal and state requirements, including addressing the presence or absence

of a disability condition as defined under the IDEA and the Texas Education Code.

The evaluation must be provided to Richard Milburn Academy upon completion.

Except for the criteria described above, Richard Milburn Academy may not impose conditions or timelines related to obtaining an IEE at public expense. (34 C.F.R. § 300.502(e)).

Sec. 17. STUDENTS WHO TRANSFER

Richard Milburn Academy If a student was in the process of being evaluated for special education eligibility by a school district and enrolls in another school district completed the FIIE, shall ensure that evaluations of children who transfer from one district to another in the same academic year are coordinated with the children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations in accordance with 34 CFR 300.301(d)(2) and (e) and 300.304(c)(5).

The timelines set forth in 19 TAC 89.1011(d) and (g) do not apply if:

1. The new school district is making sufficient progress to ensure a prompt completion of the evaluation; and
2. The parent and the new school district agree to a specific time when the evaluation will be completed.

20 U.S.C. 1414(b)(3)(D); 19 TAC 89.1011(f)

PG-6.17 FUNDING – FEDERAL FUNDING COMPLIANCE IDEA, TITLE I

Sec. 1. COMPLIANCE

Richard Milburn Academy shall use Individuals with Disabilities Education Act ("IDEA") Part B funds received to:

1. comply with the federal maintenance of effort ("MOE") requirements;
2. supplement State, local and other Federal funds and not supplant such funds; and
3. pay the excess costs of providing special education and related services to children with disabilities and must be used to supplement State, local, and other Federal funds.

(34 C.F.R. § 300.202, 20 U.S.C. § 1413(a)(2)).

Sec. 2. REDUCING LEVEL OF EXPENDITURES

Funds provided to Richard Milburn Academy will not be used to reduce the level of expenditures for the education of students with disabilities made by Richard Milburn Academy below the level of those funds for the preceding year. (20 U.S.C. § 1423(a)(2)(A)(iii), Appendix E to Part 300).

Richard Milburn Academy may reduce the level of expenditures if the reduction is attributable to:

1. Voluntary departure, retirement, or departure for just cause of special education personnel;
2. A decrease in enrollment of students with disabilities;
3. The termination of the obligation of Richard Milburn Academy to provide a special education

program to a particular student with a disability that is an exceptionally costly program because the child left Richard Milburn Academy, aged out of services, or no longer needs special education;
4. The termination of costly expenditures for long-term purchases; or
5. The assumption of cost by the high cost fund operated by the Texas Education Agency. (34

C.F.R. § 300.204).

Sec. 3. EXCESS EXPENDITURES

Having complied with MOE and excess costs requirements, Richard Milburn Academy will use IDEA Part B funds for the following activities:

1. For the costs of special education and related services, and supplementary aids and services, provided in a regular class or other education-related setting to the child with a disability in accordance with the individualized education program ("IEP") of the child, even if nondisabled children benefit from such services;
2. To develop and implement coordinated, early intervening educational services in compliance with the Child Find and administration requirements, including:
    a. Early intervening services, which may include interagency financing structures, for children in kindergarten through grade 12 (with a particular emphasis on children in kindergarten through grade 3) who are not currently identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment;
    b. Richard Milburn Academy may not use more than 15 percent of the amount received under IDEA Part B for any fiscal year, less any adjustments by Richard Milburn Academy to local fiscal effort, if any, in combination with other amounts, which may include amounts other than education funds, to develop and implement coordinated, early intervening services; and
3. To establish and implement cost or risk-sharing funds, consortia, or cooperatives for Richard Milburn Academy, or for Richard Milburn Academy's working in a consortium of which Richard Milburn Academy is a part, to pay for high-cost special education and related services.
4. Richard Milburn Academy may use IDEA Part B funds to purchase appropriate technology for recordkeeping, data collection, and related case management activities of teachers and related services personnel providing services described in the IEP that is needed for the implementation of such case management activities.

(34 C.F.R. § 300.208).

Sec. 4. EARLY INTERVENING SERVICES

Funds made available for early intervening services, must supplement not supplant funds available under the ESEA. (34 C.F.R. § 300.226(e)).

Sec. 5. USE OF IDEA PART B FUNDS FOR TITLE 1 PROGRAMS

Notwithstanding any other provisions related to commingling of funds, Richard Milburn Academy may use IDEA Part B funds received for any fiscal year to carry out a Title 1, Part A school wide programs under the Elementary and Secondary Education Act ("ESEA"), except that the amount may not exceed:

- the amount received by the school under IDEA Part B for that fiscal year; divided by

- the number of students with disabilities in the jurisdiction of the school; and multiplied by
- the number of students with disabilities participating in the school wide program. (34

C.F.R. § 300.206; 20 U.S.C. § 1413).

Sec. 6. COMPLIANCE WITH FEDERAL FUNDING REQUIREMENTS: TITLE 1

To the extent required under Title 1 of the ESEA, Richard Milburn Academy shall ensure equity among school programs in staff/student ratios and in expenditures of money for curriculum materials and instructional supplies. "Staff" shall include teachers, administrators, and auxiliary personnel. In special programs, such as special education and bilingual education, a lower ratio may be maintained and more money may be spent as necessary to fulfill other legal requirements.

The parental involvement program shall be set up in accordance with requirements of Title 1 of the ESEA, as applicable. Parental involvement is encouraged and required in the planning and decision-making process for the school and for the campus.

PG-6.18 FUNDING – NONEDUCATIONAL SERVICES

Sec. 1. NONEDUCATIONAL COMMUNITY BASED SUPPORT SERVICES

Students with disabilities and their families may be eligible to receive noneducational community- based support services paid for by public funds.

The Texas Education Agency (TEA) is responsible for establishing procedures and criteria for the allocation of noneducational funds to open-enrollment charter schools for the provision of noneducational community-based support services to certain students with disabilities and their families so that those students may receive a free appropriate public education ("FAPE") in the least restrictive environment. (TEX. EDUC. CODE § 29.013(a)).

Richard Milburn Academy shall use any funds allocated under TEX. EDUC. CODE § 29.013 only for eligible students with disabilities who would remain or would have to be placed in residential facilities primarily for educational reasons without the provision of noneducational community- based support services. (TEX. EDUC. CODE § 29.013(b)).

The support services may include in-home family support, respite care, and case management for families with a student who otherwise would have been placed by an open-enrollment charter school in a private residential facility. (TEX. EDUC. CODE § 29.013(c)).

The provision of services under TEX. EDUC. CODE § 29.013 does not supersede or limit the responsibility of other agencies to provide or pay for costs of noneducational community-based support services to enable any student with disabilities to receive a FAPE in the least restrictive environment. Specifically, services provided under TEX. EDUC. CODE § 29.013 may not be used for a student with disabilities who is currently placed or who needs to be placed in a residential facility primarily for noneducational reasons. Funds cannot be used to cover services already required through the student's individual education program or for long-term care. (TEX. EDUC. CODE § 29.013(d)).

PG-6.19 FUNDING – SHARED SERVICES ARRANGEMENTS

Sec. 1. SHARED SERVICES ARRANGEMENT

Richard Milburn Academy may enter into a shared services cooperative or shared services arrangement to jointly operate its special education programs. Funds to which the cooperating schools/charter schools are entitled may be allocated to the schools/charter schools jointly as shared services arrangement units or shared services arrangement funds in accordance with the written contract establishing the shared services arrangement, Texas Education Agency Guidance, and Texas Government Code Chapter 791 (interlocal agreements).

A contract establishing a shared services cooperative must, at a minimum:

(a) establish clear procedures for administering services under the direction and control of the cooperative and for assigning responsibility for all costs and liabilities associated with services provided under the contract;
(b) Establish the duties, responsibilities, and accountability of the fiscal agent and of each member for services provided under the contract;
(c) Establish clear procedures for withdrawal of a member from the agreement and for the dissolution and winding up of the affairs of the cooperative; and
(d) Be approved in writing by the Commissioner of Education before any services are provided, in the form of a material non-expansion amendment.

19 TAC §§ 100.1001(26), *100.1035(d)(2)(A)*.

PG-6.20 FUNDING – STATE ALLOTMENTS

Sec. 1. STATE FUNDING: SPECIAL ALLOTMENTS

Richard Milburn Academy shall maintain records of students participating in special programs in accordance with the Commissioner of Education's rules. (19 TEX. ADMIN. CODE § 129.21).

Sec. 2. SPECIAL EDUCATION ALLOTMENT

Each open-enrollment charter school will receive an annual allotment equal to the adjusted basic allotment multiplied by an amount identified in state law for each student receiving special education and related services in a mainstream instructional arrangement. For each full-time equivalent student receiving special education and related services in average daily attendance in an instructional arrangement other than a mainstream instructional arrangement, the open-enrollment charter school is entitled to an annual allotment equal to the adjusted basic allotment multiplied by a weight determined according to instructional arrangement as set forth in Tex. Educ. Code § 48.102.

Funds allocated under this section, other than an indirect cost allotment established under State Board of Education ("SBOE") rule, must be used in the special education program under Subchapter A, Chapter 29. (TEX. EDUC. CODE § 48.102(h)).

Sec. 3. COMPENSATORY EDUCATION ALLOTMENT

Richard Milburn Academy must use funds allocated under TEX. EDUC. CODE § 48.104 for a purpose authorized in TEX. EDUC. CODE § 48.104(j-1), (k). (TEX. EDUC. CODE § 48.104).

Funds allocated under TEX. EDUC. CODE § 48.104 shall be used to fund supplemental programs and services designed to eliminate any disparity in performance on assessment instruments administered under Subchapter B (School-Based Health Centers), Chapter 39, Texas Education Code or disparity in the rates of high school completion between students at risk of dropping out of school, as defined by TEX. EDUC.

CODE § 29.081 (Compensatory, Intensive, and Accelerated Instruction) and all other students. Specifically, the funds, other than an indirect cost allotment established under SBOE rule, which may not exceed 45 percent, may be used to meet the costs of providing a compensatory, intensive, or accelerated instruction program under TEX. EDUC. CODE § 29.081 or an alternative education program established under TEX. EDUC. CODE § (Disciplinary Alternative Education Programs) or to support a program eligible under Title I of the Elementary and Secondary Education Act of 1965, as provided by Pub. L. No. 103-382 and its subsequent amendments, and by federal regulations implementing that Act, at a campus at which at least 40 percent of the students are educationally disadvantaged. In meeting the costs of providing a compensatory, intensive, or accelerated instruction program under TEX. EDUC. CODE § 29.081, Richard Milburn Academy's compensatory education allotment shall be used for costs supplementary to the regular education program, such as costs for program and student evaluation, instructional materials and equipment and other supplies required for quality instruction, supplemental staff expenses, salary for teachers of at-risk students, smaller class size, and individualized instruction. (TEX. EDUC. CODE § 48.104(k)).

Sec. 4. BILINGUAL EDUCATION ALLOTMENT

For each student in average daily attendance in a bilingual education or special language program under Subchapter B, Chapter 29, an open-enrollment charter school is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 0.1. Funds allocated under this section, other than an indirect cost allotment established under SBOE rule, must be used in providing bilingual education or special language programs under Subchapter B, Chapter 29, and must be accounted for under existing agency reporting and auditing procedures. An open- enrollment charter school's bilingual education or special language allocation may only be used for program and student evaluation, instructional materials and equipment, staff development, supplemental staff expenses, salary supplements for teachers, and other supplies required for quality instruction and smaller class size. (TEX. EDUC. CODE §§ 12.104(b)(3)(G) and 42.105).

Sec. 5. CAREER AND TECHNOLOGY EDUCATION ALLOTMENT

For each full-time equivalent student in average daily attendance in an approved career and technology education program in grades 7 through 12 or in career and technology education programs for students with disabilities in grades seven through 12, an open-enrollment charter school is entitled to:

1. an annual allotment equal to the adjusted basic allotment multiplied by a weight of 1.35; and
2. $50 for each of the following in which the student is enrolled:
   a. two or more advanced career and technology education classes for a total of three or more credits;
   b. a campus designated as a P-TECH school under Section 29.566; or
   c. a campus that is a member of the New Tech Network and that focuses on project-based learning and work-based education.

For purposes of this allotment, "full-time equivalent student" means 30 hours of contact a week between a student and career and technology education program personnel.

At least 55% of the funds allocated under this section must be used in providing career and technology education programs in grades 7 through 12. (TEX. EDUC. CODE § 48.106).

Sec. 1. COMPLIANCE WITH GENERAL AND FISCAL GUIDELINES

Richard Milburn Academy must comply with the Texas Education Agency General and Fiscal Guidelines.

Sec. 2. CHARGING COSTS TO SPECIAL EDUCATION GRANT

Richard Milburn Academy may charge costs to a special education grant when those costs follow the Richard Milburn Academy's local written procedures for allowability of costs and meet the following criteria:

- Are reasonable for the performance of the special education grant and are allocable under the applicable cost principles;
- Conform to limitations or exclusions set forth in applicable cost principles or the special education grant agreement as to types or amount of costs;
- Are consistent with policies and procedures that apply uniformly to federally or state- funded activities funded from other sources;
- Are accorded consistent treatment among all grant programs, regardless of funding source;
- Are not included as a cost or used to meet cost-sharing or matching requirements of any other federally or state-funded program in the current or a prior period; and
- Are adequately documented.

Sec. 3. REASONABLE COST

A cost can be considered reasonable if it meets the following standards:

- The cost is of a type generally recognized as ordinary and necessary for the operation of Richard Milburn Academy or grant performance;
- Restrictions or requirements are imposed for generally accepted sound business practices, arms-length bargaining, federal or state laws and regulations, and grant award terms and conditions;
- Consideration is given to market prices for comparable goods or services for the geographical area;
- Individuals are acting with prudence in the circumstances of responsibility to Richard Milburn Academy and federal and state government; and
- There are no significant deviations from established practices of Richard Milburn Academy that may unjustifiably increase grant costs.

a) Allocating Costs

A cost is allocable to the special education grant in accordance with relative benefits received if it is treated consistently with other costs incurred for the same purposes in like circumstance and if it meets the following:

- Is incurred specifically for the grant;
- Benefits both the grant and the other work and can be distributed in reasonable proportion to the benefits received; and
- Is necessary to the overall operation of Richard Milburn Academy and is assignable in part to the special education grant award in accordance with the principles of this framework.

PG-6.22 GRADUATION PLAN

Sec. 1. APPLICABILITY OF TITLE RELATING TO HIGH SCHOOL GRADUATION

Richard Milburn Academy is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the TEX. EDUC. CODE, relating to high school graduation under TEX. EDUC. CODE § 28.025. (TEX. EDUC. § 12.104(b)(2)(E)).

SEC. 2. MODIFIED CURRICULUM AND MODIFIED CONTENT

For purposes of this policy and its related requirements, "modified curriculum" and "modified content" reference any reduction of the amount or complexity of required Texas Essential Knowledge and skills. Substitutions that are not specifically authorized in statute or regulations must not be considered modified curriculum or modified content. *19 TAC 89.1070(k).*

Sec. 3. ARD COMMITTEE AND TRANSITION PLANNING

Not later than the first Individualized Education Program ("IEP") to be in effect when the student turns 14 years of age, the Admission, Review and Dismissal ("ARD") committee must consider and, if appropriate, address, transition planning in accordance with applicable state and federal law. The ARD committee must also consider the student's graduation plan and what state assessments are required for graduation. For more information about transition planning, see PG-6.3.

34 CFR 300.43(a), (b), 300.321(b)(2); Education Code 29.011, 29.0111; 19 TAC 89.1055(k)-(o).

Sec. 4. SPECIAL EDUCATION ELIGIBILITY UPON GRADUATION

Graduation under 19 TAC 89.1070(b)(1) or reaching maximum age eligibility as set forth in 19 TAC 89.1035 terminates a student's eligibility for special education and related services and entitlement to the benefits of the Foundation School Program as set forth in TEC 48.003(a). Termination of eligibility based on graduation requires Richard Milburn Academy to complete a summary of performance in accordance with 34 C.F.R. § 300.305(e)(3), and prior written notice must be provided to the parent.

34 CFR 300.102; 19 TAC 89.1035(a), 89.1070(a)

Sec. 5. GRADUATION REQUIREMENTS

Pursuant to 19 TAC 89.1070(b)(1), student with a disability who receives special education services may graduate and receive a regular high school diploma if the student satisfies the following criteria:

1. Demonstrates mastery of the required states standards;
2. Completes the credit requirements under the Foundation High School Program applicable to students in general education; and
3. Demonstrates satisfactory performance as established for students in general education in Chapters 28 and 39, on the required end-of-course assessment instruments, which could include meeting the requirements of 19 TAC 89.1070(d).

Education Code 28.025(c)(1), 39.025; 19 TAC 74.12, 74.125(n), 89.1070(b)(1), 101.3023(a).

A student who is in eleventh or twelfth grade who has taken each of the required state assessments required by Chapter 101, Subchapter CC of the Education Code, but failed to achieve satisfactorily on no more than two of the assessments, is eligible to receive a diploma under 19 TAC 89.1070(b)(1) above.

19 TAC 89.1070(d).

Pursuant to 19 TAC 89.1070(b)(2), a student who receives special education services may also graduate and earn a regular high school diploma if:

1. The student demonstrates mastery of the required states standards or Richard Milburn Academy's standards if they are greater;
2. The student satisfactorily completes the credit requirements for graduation under the Foundation High School Program applicable to students in general education; and
3. The student's ARD committee has determined that satisfactory performance, beyond what would otherwise be required in 19 TAC 89.1070(b)(1) and (d), on the required end-of-course instruments is not required for graduation.

19 TAC 89.1070(b)(2).

Pursuant to 19 TAC 89.1070(b)(3), a student who receives special education services may also graduate and earn a regular high school diploma if:

1. The student satisfactorily completes the credit requirements for graduation under the Foundation High School Program through courses, one or more of which contain modified curriculum that is aligned to the standards applicable to general education;
2. The student demonstrates mastery of the required state standards (or Richard Milburn Academy's standards if greater) in accordance with modified content and curriculum expectations established in the student's IEP;
3. The student achieves satisfactory performance on the required end-of-course assessment instruments, unless the student's ARD committee has determined that satisfactory performance on the required end-of-course instruments is not necessary for graduation; and
4. The student successfully completes the IEP and meets one of the following conditions:
    a. consistent with the IEP, the student obtains full-time employment and masters sufficient self-help skills to enable to the student to maintain employment without direct or ongoing educational support of Richard Milburn Academy
    b. consistent with the IEP, the student has demonstrated mastery of specific employability skills and self-help skills that do not require ongoing educational support Richard Milburn Academy; or
    c. the student has access to services or other supports that are not within the legal responsibility of public education, including employment or postsecondary education established through transition planning.

Education Code 28.025; 19 TAC 89.1035, 89.1070(b)(3).

For students who graduate and receive a diploma according to 19 TAC 89.1070(b)(2) or (b)(3)(A), (B), or (C) described above, the ARD committee must determine needed special education services upon the request of the student or parent to resume services, as long as the student meets the age eligibility requirements.

19 TAC 89.1070(j).

Sec. 6. Summary of Performance

A summary of academic achievement and functional performance must be provided prior to exit from public school for students who meet one of the following:

1. A student who has met requirements for graduation as set forth in 19 TAC 89.1070(b)(1) or who has exceeded the maximum age of eligibility under 19 TAC 89.1053;
2. A student who has met requirements for graduation specified in 19 TAC 89.1070(b)(2) or (b)(3)(A), (B), or (C). A student meeting this condition is also entitled to an evaluation pursuant to 34 CFR 300.305(e)(1).

19 TAC 89.1070(f).

The summary of performance must:

1. include recommendations on how to assist the student in meeting the student's postsecondary goals in accordance with 34 CFR 300.305(e)(3); and
2. Consider, as appropriate, the views of the parent and student and written recommendations from adult service agencies on how to assist the student in meeting postsecondary goals.

19 TAC 89.1070(g).

Sec. 7. Certificate of Attendance

A student who has reached the maximum age of eligibility in accordance with 19 TAC 89.1035 without meeting the credit, curriculum, and assessment requirements specified in 19 TAC 89.1070(b) is not eligible to receive a diploma but may receive a certificate of attendance as set forth in TEC 28.025(f).

19 TAC 89.1070(e).

For students who meet the graduation requirements in 19 TAC 89.1070(b)(2) or (b)(3)(A), (B), or (C) described in Section 5 above, and who will continue enrollment in public school to receive special education services aligned with their transition plan will be provided he summary of performance described in Section 6 upon exit from the public school system. These students are entitled to participate in commencement ceremonies and receive a certificate of attendance after completing four years of high school, as described in TEC 89.025(f).

19 TAC 89.1070(h).

Sec. 8. ENDORSEMENTS UNDER THE FOUNDATION HIGH SCHOOL PROGRAM

A student receiving special education services may receive an endorsement if the student:

1. Satisfactorily completes the requirements for graduation under the Foundation High School Program specified in 19 TAC 74.12 as well as the additional credit requirements in mathematics, science, and elective courses in 19 TAC 74.13(e) with or without modified curriculum;

2. Satisfactorily completes the courses required for endorsement as set forth in 19 TAC 74.13(f) without any modified curriculum or with modification of the curriculum, provided that the curriculum, as modified, is sufficiently rigorous as determined by the ARD committee; and
3. Performs satisfactorily as established in Chapter 39 of the Education Code, on the required end-of-course assessment instruments unless the student's ARD committee determines that satisfactory performance is not required.

Education Code 28.025(c-7); 19 TAC 89.1070(c).

Sec. 9. SUBSTITUTIONS UNDER THE FOUNDATION HIGH SCHOOL PROGRAM

a) Language other than English

A student who, due to disability, is unable to complete two credits in the same language in a LOTE, as provided in Section 28.025(b-1)(5), may substitute for those credits:

1. Two credits in ELA, mathematics, science, or social studies; or
2. Two credits in career and technology education ("CTE"), technology applications, or other academic electives.

A credit allowed to be substituted under the above provisions may not also be used by the student to satisfy a graduation credit requirement other than credit for completion of a LOTE.

The determination regarding a student's ability to participate in LOTE courses will be made by the student's ARD committee or the committee established for the student under Section 504, Rehabilitation Act of 1973 (29 United States Code, Section 794) if the student does not receive special education services under the TEC, Chapter 29, Subchapter A, but is covered by the Rehabilitation Act of 1973.

Education Code 28.025(b-14)(1); 19 TAC 74.12(b)(5).

b) Physical Education

In accordance with State Board of Education ("SBOE") rules, a student who is unable to participate in physical activity due to disability or illness is allowed to substitute for the physical education credit required under TEC 28.025(b-1)(8):

1. One credit in ELA, mathematics, science, or social studies;
2. One credit in a course that is offered for a credit as provided by TEC 28.002(g-1); or
3. One academic elective credit.

A credit allowed to be substituted for PE credit may not also be used by the student to satisfy any other graduation requirement.

The determination regarding a student's ability to participate in physical activity must be made by:

1. The student's ARD committee, if the student receives special education services under the IDEA and Texas Education Code Chapter 29;
2. The student's 504 committee, if the student does not receive special education services under the IDEA or Texas Education Code Chapter 29, Subchapter A but is covered by Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794; or
3. If each of the committees described above is inapplicable, a committee established by the school of persons with appropriate knowledge regarding the student.

Education Code 28.025(b-11),(b-14); 19 TAC 74.12(b)(6)(G).

For additional information related to state assessments, please see Richard Milburn Academy's Policy Module 2 (Instruction).

PG-6.23 PARENT

Sec. 1. FOSTER PARENT

A foster parent may act as a parent of a child with a disability, as authorized under 20 U.S.C. § 1415(b) and its subsequent amendments, if:

1. the Department of Family and Protective Services ("DFPS") is appointed as the temporary or permanent managing conservator of the child;
2. the rights and duties of the department to make decisions regarding education provided to the child under Texas Family Code § 153.371, have not been limited by court order; and
3. the foster parent agrees to:
   a. participate in making special education decisions on the child's behalf; and
   b. complete a training program that complies with minimum standards established by the Texas Education Agency ("TEA") rule.

(TEX. EDUC. CODE § 29.015(a)).

A foster parent who will act as a parent of a child with a disability must complete a training program before the next scheduled admission, review, and dismissal ("ARD") committee meeting for the child but not later than the 90th day after the date the foster parent begins acting as the parent for the purpose of making special education decisions. (TEX. EDUC. CODE §29.015(b)).

Richard Milburn Academy may not require a foster parent to retake a training program to continue serving as a child's parent or to serve as the surrogate parent for another child if the foster parent has completed a training program to act as a parent of a child with a disability provided by:

1. the DFPS;
2. a school district;
3. an education service center; or
4. any other entity that receives federal funds to provide special education training to parents.

A foster parent who is denied the right to act as a parent under TEX. EDUC. CODE § 29.015 by an open-

enrollment charter school may file a complaint with the TEA in accordance with federal law and regulations. (TEX. EDUC. CODE § 29.015(c)).

Richard Milburn Academy shall provide notice to the student's educational decision-maker and caseworker regarding events that may significantly impact the education of a student, including:

1. requests or referrals for an evaluation under Section 504, Rehabilitation Act of 1973 (29 U.S.C. § 794), or special education under TEX. EDUC. CODE § 29.003;
2. ARD committee meetings;
3. manifestation determination reviews required by TEX. EDUC. CODE § 37.004(b);
4. any disciplinary actions under Texas Education Code Chapter 37 for which parental notice is required;
5. citations issued for Class C misdemeanor offenses on school property or at school-sponsored activities;
6. reports of restraint and seclusion required by Tex. Educ. Code § 37.0021; and
7. use of corporal punishment as provided by Tex. Educ. Code § 37.0011.

(TEX. EDUC. CODE § 25.007).

As a condition to receiving funds under Title I, Part A, Richard Milburn Academy shall collaborate with the state or local child welfare agency to:

a. ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with 42 U.S.C. § 675(4)(A) and to the extent required by law; and

b. ensure that, if there are additional costs incurred in providing transportation to maintain children in foster care in their schools of origin, Richard Milburn Academy will, to the extent required by law, provide transportation to the school of origin if:

    i. the local child welfare agency agrees to reimburse Richard Milburn Academy for the cost of transportation;
    ii. Richard Milburn Academy agrees to pay the cost of transportation; or
    iii. Richard Milburn Academy and the local welfare agency agree to share the cost of such transportation.

20 U.S.C. § 6312(c)(5).

Sec. 2. SURROGATE PARENT

Richard Milburn Academy must appoint an individual to serve as the surrogate parent for a child if:

1. Richard Milburn Academy is unable to identify or locate a parent for a child with a disability; or
2. the foster parent of a child is unwilling or unable to serve as a parent.

A surrogate parent appointed by Richard Milburn Academy may not:

1. be an employee of the state, Richard Milburn Academy, or any other agency involved in the education or care of the child; or

2. have any interest that conflicts with the interests of the child.

A surrogate parent must:

1. be willing to serve in that capacity;
2. exercise independent judgement in pursuing the child's interests;
3. ensure that the child's due process rights under applicable state and federal laws are not violated;
4. complete a training program that complies with minimum standards established by agency rule before the next scheduled admission, review, and dismissal committee meeting for the child but not later than the 90th day after the date the surrogate parent is appointed;
5. visit the child and the school where the child is enrolled;
6. review the child's educational records;
7. consult with any person involved in the child's education, including the child's teachers, caseworkers, court-appointed volunteers, guardian ad litem, attorney ad litem, foster parent, and caregiver; and
8. attend meetings of the child's admission, review, and dismissal committee.

Richard Milburn Academy may appoint a person who has been appointed to serve as a child's guardian ad litem or as a court-certified volunteer advocate as the child's surrogate parent. As soon as practicable after appointing a surrogate parent Richard Milburn Academy shall provide written notice of the appointment to the child's educational decision-maker and caseworker.

If a court appoints a surrogate parent for a child with a disability and the Richard Milburn Academy determines that the surrogate parent is failing to perform or is not properly performing the duties listed in this policy, Richard Milburn Academy shall consult with the DFPS regarding whether another person should be appointed to serve as the surrogate parent for the child.

PG-6.25 PROCEDURAL SAFEGUARDS AND REQUIREMENTS

Sec. 1. PROCEDURAL SAFEGUARDS

The Superintendent shall establish and maintain procedures to ensure that children with disabilities and their parents or adult student are guaranteed procedural safeguards with respect to the provision of a free appropriate public education ("FAPE"). 20 U.S.C. § 1415(a)–(b).

These procedures shall include:

1. An opportunity for the parents to review all education records and to participate in meetings relating to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child. 34 C.F.R. § 300.501.
2. An opportunity for the parents to obtain an independent educational evaluation of the child. 34 C.F.R. § 300.502.
3. Assignment of an individual to act as a surrogate for the parent when no parent can be identified, Richard Milburn Academy cannot locate the parents, or the child is a ward of the state. 34 C.F.R. § 300.519.
4. Prior written notice to the parents whenever Richard Milburn Academy proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. 34 C.F.R.§ 300.503.
5. Procedures to allow parties to resolve disputes through a mediation process. 34 C.F.R. § 300.506.
6. An opportunity for any party to file a due process complaint on any matter relating to the identification,

evaluation, or educational placement of the child, or the provision of FAPE to the child. 34 C.F.R. § 300.507.

7. Procedures that require either party, or the attorney representing a party, to provide to the other party a due process complaint (which shall remain confidential). 34 C.F.R.§ 300.508.

Sec. 2. LANGUAGE OF NOTICES

The procedural safeguards and prior notices described below must be written in a language understandable to the general public. The notice must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. 34 C.F.R. §§ 300.503(c), 300.504(d).

a) Electronic Delivery of Notices

A parent of a child or adult student with a disability may elect to receive required notices by electronic mail, if Richard Milburn Academy makes that option available. 34 C.F.R. § 300.505.

b) Notice of Procedural Safeguards

Richard Milburn Academy shall provide a copy of the procedural safeguards to parents or adult student only once per year, except that a copy also shall be given to the parents or adult student:

1. Upon initial referral or parental or adult student request for evaluation;
2. Upon receipt of the first state complaint and upon receipt of the first due process complaint in a school year;
3. On the date of a decision to make a disciplinary removal that is a change in placement; and
4. Upon request by a parent or adult student.

Richard Milburn Academy may also place a current copy of the procedural safeguards notice on its Internet website.

c) Contents of Notice

The notice shall include a full explanation of the procedural safeguards relating to:

1. Independent educational evaluations;
2. Prior written notice;
3. Parental consent;
4. Access to educational records;
5. Opportunity to present and resolve complaints through the due process complaint and state complaint procedures, including:
   a. The time period in which to file a complaint,
   b. The opportunity for Richard Milburn Academy to resolve the complaint; and
   c. The difference between the due process complaint and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures.

6. The availability of mediation;
7. The child's placement during pendency of any due process proceedings;
8. Procedures for children who are subject to placement in an interim alternative educational setting;
9. Requirements for unilateral placement by parents of children in private schools at public expense;
10. Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
11. Civil actions, including the time period in which to file such actions; and
12. Attorneys' fees.

20 U.S.C. § 1415(a)–(b), (d); 34 C.F.R. § 300.504(c).

Sec. 3. DISPUTE RESOLUTION

The possible options for resolving disputes that arise between a parent and Richard Milburn Academy relating to the identification, evaluation, or educational placement of or the provision of FAPE to a student with a disability include, but are not limited to:

1. ARD committee meetings, including IEP facilitation if offered by Richard Milburn Academy, under 19 TAC 89.1196;
2. Meetings or conferences with the student's teachers;
3. Meetings or conferences, subject to Richard Milburn Academy policies, with the principal, special education director, Superintendent, or Board;
4. Requesting state IEP facilitation in accordance with 19 TAC 89.1197 (relating to State Individualized Education Program Facilitation);
5. Requesting mediation through the Texas Education Agency ("TEA") in accordance with 34 CFR 300.506;
6. Filing a complaint with TEA in accordance with 34 CFR 300.153; or
7. Requesting a due process hearing through TEA in accordance with 34 CFR 300.507-300.514.

19 TAC 89.1150.

Sec. 4. PROCESS COMPLAINT

Whenever a due process complaint has been received by Richard Milburn Academy, the parent shall have an opportunity for an impartial due process hearing, which shall be conducted by TEA.

a) Time Limits

1. *Due Process Complaints Filed Before September 1, 2022:*

   A due process complaint filed before September 1, 2022 must set forth an alleged violation that occurred not more than one year before the date the parent or Richard Milburn Academy knew or should have known about the alleged action that forms the basis of the complaint. *20 U.S.C. 1415(f)(1)(A); 19 TAC 89.1151(c)*.

2. *Due Process Complaints Filed On or After September 1, 2022:*

   A due process complaint filed on or after September 1, 2022 must set forth an alleged violation that occurred not more than two years before the date the parent or Richard Milburn Academy knew or should have known about the alleged action that forms the basis of the complaint. *20 U.S.C. 1415(f)(1)(A); Education Code 29.0164*.

b) Exceptions

These time limits shall not apply if the parent was prevented from requesting a hearing due to:

1. A specific misrepresentation by Richard Milburn Academy that it had resolved the problem forming the basis of the complaint; or
2. Richard Milburn Academy's withholding of information from the parent that Richard Milburn Academy was required by the IDEA to provide.

20 U.S.C. 1415(f)(3)(D); 34 CFR 300.511(f);19 TAC 89.1151(d).

c) "Stay Put"

During the pendency of any administrative or judicial proceeding regarding a due process complaint notice requesting a due process hearing, the child shall remain in the then-current educational placement unless Richard Milburn Academy and the parent agree otherwise. If the child is applying for initial admission to a public school, the child shall, with the consent of the parents, be placed in the public school program until all proceedings have been completed. *20 U.S.C. 1415(j); 34 CFR 300.518, 300.533*.

d) Exception

When a due process hearing has been requested by a parent or Richard Milburn Academy concerning a disciplinary change of placement or manifestation determination, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the child's assignment to the alternative setting, or the 45-day timeline, if applicable, whichever occurs first, unless the parent and Richard Milburn Academy agree otherwise. *20 U.S.C. 1415(k)(3)(A), 1415(k)(4)(A); 34 CFR 300.533*.

e) Resolution Process

Within 15 days of receiving notice of a parent's due process complaint, and before initiating a due process hearing under 34 CFR 300.511, Richard Milburn Academy shall convene a meeting with the parent and the relevant member or members of the ARD committee. The purpose of the meeting is for the parent to discuss the due process complaint and the facts that form the basis of the due process complaint, so that Richard Milburn Academy has the opportunity to resolve the dispute.

The meeting need not be held if the parent and Richard Milburn Academy agree in writing to waive the meeting, or the parent and Richard Milburn Academy agree to use the mediation process.

If Richard Milburn Academy has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the complaint, the due process hearing may occur. If Richard Milburn Academy is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made Richard Milburn Academy may, at the conclusion of the 30-day period, request that a hearing officer dismiss the parent's due process complaint.

34 CFR 300.510.

Sec. 5. TRANSFER OF RIGHTS TO ADULT STUDENTS

When a student reaches the age of 18, Richard Milburn Academy shall notify the student and the parents of the transfer of parental rights. This notice is separate and distinct from the requirement that, beginning at least one year before the student reaches the age of 18, the student's IEP include a statement regarding transfer of parental

rights.

A student with a disability who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Chapter 31, Family Code, shall have the same right to make educational decisions as a student without a disability. All other rights accorded to parents under Chapter 29, Subchapter A of the Education Code or 20 U.S.C. 1415 transfer to the student.

34 CFR 300.520; Education Code 29.017(a)–(b); 19 TAC 89.1049(c).

PG-6.26 RECORDS

SEC. 1. EDUCATION RECORDS IN GENERAL

Student records shall be maintained for each student from the time the student is in attendance at Richard Milburn Academy until withdrawal or graduation from Richard Milburn Academy. These records shall move with the respective student from campus to campus. Records for students not in attendance and/or withdrawn students and graduates shall be retained for the period of time required by law. No permanent records may be destroyed without explicit written permission from the Superintendent.

For additional information on Richard Milburn Academy general education record policy, please see Module 2 (Students).

Sec. 2. ACCESS TO RECORDS UNDER THE IDEA

The IDEA grants parents the right to inspect and review all educational records with respect to the identification, evaluation, educational placement, and the provision of FAPE to the child. 34 C.F.R. § 300.501(a). Richard Milburn Academy must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the district under the IDEA. Richard Milburn Academy must comply with the request without unnecessary delay and before any meeting regarding an IEP, any due process hearing, or resolution session, and in no case more than 45 days after the request has been made. 34 C.F.R. § 300.613(a).

PG-6.27 RECORDS RETENTION AND DESTRUCTION

Sec. 1. DEFINITIONS

a) "Records"

The term "records" means all documents, papers, letters, books, maps, photographs, sound or video recordings, microfilm, magnetic tape, electronic media, or other recording media, regardless of physical form or characteristic, and regardless of whether public access to it is open or restricted under the laws of the state, created or received by Richard Milburn Academy, or any of its officers or employees pursuant to law or in the transaction of public business, are hereby declared to be the records of Richard Milburn Academy and shall be created, maintained, and disposed of in accordance with the provisions of this ordinance or procedures authorized by it and in no other manner.

The term "records" does not include:

1. Convenience copies: "Extra identical copies of documents created only for convenience of reference or research."

2. Copies of documents furnished to the public (to fulfill a Public Information Actrequest).
3. Blank forms/stocks of publications.
4. Library or museum materials.

b) "Essential Record"

The term "essential record" means any record of Richard Milburn Academy necessary to the resumption or continuation of operations of Richard Milburn Academy in an emergency or disaster, to the recreation of the legal and financial status of Richard Milburn Academy, or to the protection and fulfillment of obligations to the people of the state.

c) "Records Management"

The term "records management" means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducingthe costs and improving the efficiency of record keeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographic and electronic and other records storage systems.

d) "Records Liaison Officers"

The term "records liaison officers" means the persons designated under Section 9 of this policy.

e) "Records Management Committee"

The term "records management committee" means the committee established in accordance with this policy.

f) "Records Management Officer"

The term "records management officer" means the person designated in Section 4 of this policy.

g) "Records Management Plan"

The term "records management plan" means the plan developed under Section 6 of this policy.

Sec. 2. RECORDS DECLARED PUBLIC PROPERTY

All records as defined in Section 1 of this policy are hereby declared to be the property of Richard Milburn Academy. No official or employee of Richard Milburn Academy has, by virtue of his or her position, any personal or property right to such records, even though he or she may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited.

Sec. 3. POLICY

It is hereby declared to be the policy of Richard Milburn Academy to provide for efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all records of this office through a comprehensive system of integrated procedures for the management of

records from their creation to their ultimate disposition, consistent with the requirements of the Local Government Records Act and accepted records management practice.

Sec. 4. RECORDS MANAGEMENT OFFICER

The RMA Human Resources Specialist will serve as Records Management Officer for Richard Milburn Academy as provided by law, and will ensure that the maintenance, destruction, electronic storage, or other disposition of the records of this office are carried out in accordance with the requirements of the Texas Local Government Records Act.

Sec. 5. ESTABLISHMENT OF RECORDS MANAGEMENT COMMITTEE; DUTIES

The Records Management Officer, in consultation with the Human Resource Director, shall appoint a Records Management Committee consisting of:

1. A Human Resource Department Supervisor; and
2. A financial officer for Richard Milburn Academy; and
3. An executive or administrative officer for Richard Milburn Academy.

The committee shall:

1. Assist the Records Management Officer in the development of policies and procedures governing the records management program;
2. Review the performance of the program on a regular basis and propose changes and improvements if needed;
3. Review and approve records control schedules submitted by the Records Management Officer;
4. Give final approval to the destruction of records in accordance with approved records control schedules; and
5. Actively support and promote the records management program throughout Richard Milburn Academy.

Sec. 6. RECORDS MANAGEMENT PLAN TO BE DEVELOPED; APPROVAL OF PLAN; AUTHORITY OF PLAN

The Records Management Officer and the Records Management Committee shall develop a records management plan for Richard Milburn Academy to be submitted to the Board. The plan must contain policies and procedures designed to reduce the costs and improve the efficiency of record keeping, to adequately protect the essential records of Richard Milburn Academy, and to properly preserve those records of Richard Milburn Academy that are of historical value. The plan must be designed to enable the Records Management Officer to carry out his or her duties prescribed by state law and this policy effectively.

Once approved by the Board, the records management plan shall be binding on all offices, departments, divisions, programs, commissions, bureaus, boards, committees, or similar entities of Richard Milburn Academy, and records shall be created, maintained, stored, microfilmed, or disposed of in accordance with the plan.

Sec. 7. DUTIES OF RECORDS MANAGEMENT OFFICER

In addition to other duties assigned in this policy, the Records Management Officer shall:

1. Administer the records management program and provide assistance to department heads in its implementation;
2. Plan, formulate, and prescribe records disposition policies, systems, standards, and procedures;
3. In cooperation with Principals and department heads, identify essential records and establish a disaster plan for each Richard Milburn Academy campus and department to ensure maximum availability of the records in order to re-establish operations quickly and with minimum disruption and expense;
4. Develop procedures to ensure the permanent preservation of the historically valuable records of Richard Milburn Academy;
5. Establish standards for filing and storage equipment and for record keeping supplies;
6. Study the feasibility of and, if appropriate, establish a uniform filing system and a forms design and control system for Richard Milburn Academy;
7. Provide records management advice and assistance to all Richard Milburn Academy departments by preparing a manual or manuals of procedure and policy and by on-site consultation;
8. Monitor records retention schedules and administrative rules issued by the Texas State Library and Archives Commission to determine if the records management program and Richard Milburn Academy's records control schedules are in compliance with state regulations;
9. Disseminate to the Board, department heads, and Principals information concerning state laws and administrative rules relating to local government records;
10. Instruct Records Liaison Officers and other personnel in policies and procedures of the records management plan and their duties in the records management program;
11. Direct Records Liaison Officers or other personnel in the conduct of records inventories in preparation for the development of records control schedules as required by state law and this policy;
12. Ensure that the maintenance, preservation, microfilming, destruction, or other disposition of Richard Milburn Academy records is carried out in accordance with the policies and procedures of the records management program and the requirements of state law;
13. Maintain records on the volume of records destroyed under approved records -- control schedules, the volume of records microfilmed or stored electronically, and the estimated cost and space savings as the result of such disposal or disposition;
14. Report annually to the Superintendent on the implementation of the records management plan in each department of Richard Milburn Academy; and
15. Bring to the attention of the Superintendent non-compliance by department heads, Principals, or other Richard Milburn Academy personnel with the policies and procedures of the records management program or the Local Government Records Act.

Sec. 8. DUTIES AND RESPONSIBILITIES OF DEPARTMENT HEADS AND PRINCIPALS

In addition to other duties assigned in this policy, department heads and Principals shall:

1. Cooperate with the Records Management Officer in carrying out the policies and procedures established by Richard Milburn Academy for the efficient and economical management of records and in carrying out the requirements of this policy;
2. Adequately document the transaction of government business and the services, programs, and duties for which the department head, principal, and his or her staff are responsible; and

3. Maintain the records in his or her care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the records management program of Richard Milburn Academy and the requirements of this policy.

Sec. 9. DESIGNATION OF RECORDS LIAISON OFFICERS

Each department head and Principal shall designate a member of his or her staff to serve as a Records Liaison Officer for the implementation of the records management program in the department.

If the Records Management Officer determines that in the best interests of the records management program more than one Records Liaison Officer should be designated for a department, the department head or Principal shall designate the number of Records Liaison Officers specified by the Records Management Officer.

Persons designated as Records Liaison Officers shall be thoroughly familiar with all records created and maintained by the department.

In the event of the resignation, retirement, dismissal, or removal by action of the department head or Principal of a person designated as a Records Liaison Officer, the department head or Principal shall promptly designate another person to fill the vacancy.

A department head or Principal may serve as Records Liaison Officer for his or her department.

Sec. 10. DUTIES AND RESPONSIBILITIES OF RECORDS LIAISON OFFICERS

In addition to other duties assigned in this policy, Records Liaison Officers shall:

1. Conduct or supervise the conduct of inventories of the records of the department in preparation for the development of records control schedules;
2. In cooperation with the Records Management Officer, coordinate and implement the policies and procedures of the records management program in their department; and
3. Disseminate information to department staff concerning the records management program.

Sec. 11. RECORDS CONTROL SCHEDULES TO BE DEVELOPED; APPROVAL; FILING WITH STATE

1. The Records Management Officer, in cooperation with department heads, Principals, and Records Liaison Officers, shall prepare records control schedules on a department by department basis, listing all records created or received by the department and the retention period for each record. Records control schedules shall also contain such other information regarding the disposition of Richard Milburn Academy records as the records management plan may require.
2. Each records control schedule shall be monitored and amended as needed by the Records Management Officer on a regular basis to ensure that it is in compliance with records retention schedules issued by the state, and that it continues to reflect the record keeping procedures and needs of the department and the records management program of Richard Milburn Academy.
3. Before its adoption, a records control schedule or amended schedule for a department must be approved by the department head or Principal and the members of the Records Management Committee.
4. Before its adoption, a records control schedule must be submitted to and accepted for filing by the director and librarian as provided by state law. If a schedule is not accepted for filing, the schedule

shall be amended to make it acceptable for filing. The Records Management Officer shall submit the records control schedules to the director and librarian.

Sec. 12. IMPLEMENTATION OF RECORDS CONTROL SCHEDULES; DESTRUCTION OF RECORDS UNDER SCHEDULE

1. A records control schedule for a department that has been approved and adopted under Section 11 shall be implemented by department heads, principals and Records Liaison Officers according to the policies and procedures of the records management plan.
2. A record whose retention period has expired on a record control schedule shall be destroyed unless an open records request is pending on the record, the subject matter of the records is pertinent to a pending lawsuit, or the department head or principal requests in writing to the Records Management Committee that the record be retained for an additional period.
3. Prior to the destruction of a record under an approved records control schedule, authorization for the destruction must be obtained by the Records Management Officer from the Records Management Committee.

Sec. 13. DESTRUCTION OF UNSCHEDULED RECORDS

A record that has not yet been listed on an approved records control schedule may be destroyed if its destruction has been approved in the same manner as a record destroyed under an approved schedule and the Records Management Officer has submitted to and received back from the director and librarian an approved destruction authorization request.

Sec. 14. CONTRACT SERVICES

With approval of the Board, the Records Management Officer and Committee may assign and delegate duties under this Policy to contracted services. The engagement of contract services will not relieve persons assigned and responsible under this policy from such assignment and responsibilities.

Sec. 15. RECORD OF ACCESS

Richard Milburn Academy shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student, (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records. The record of access shall be maintained with the education records of the student as long as the records are maintained.

PG-6.28 RESTRAINT AND TIME-OUT

Sec. 1. BEHAVIOR MANAGEMENT TECHNIQUES

It is Richard Milburn Academy's policy to treat all students with dignity and respect, including students with disabilities who receive special education services. Any behavior management technique and/or discipline management practice must be implemented in such a way as to protect the health and safety of the student and others. No discipline management practice may be calculated to inflict injury, cause harm, demean, or deprive the student of basic human necessities.
Education Code 37.0021(a); 19 TAC 89.1053(a), (j).

Exceptions Tex. Educ. Code § 37.0021 (regarding use of confinement, seclusion, restraint, and time-out)

does not apply to:

1. A peace officer, while performing law enforcement duties, except as provided by Education Code 37.0021(i); and
2. An educational services provider with whom a student is placed by a judicial authority unless the services are provided in a Richard Milburn Academy educational program.

Education Code 37.0021(g).

Sec. 2. CONFINEMENT

A student with a disability who receives special education services may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique. *Education Code 37.0021(a)*.

Education Code 37.0021 does not prevent a student's locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:

1. The student possesses a weapon; and
2. The confinement is necessary to prevent the student from causing bodily harm to the student or another person.

For these purposes, "weapon" includes any weapon described under Education Code 37.007(a)(1).

Education Code 37.0021(f), 37.007(a)(1); Penal Code 46.01(1), (3), (6), 46.05.

Sec. 3. SECLUSION

A Richard Milburn Academy employee or volunteer or an independent contractor of Richard Milburn Academy may not place a student in seclusion. "Seclusion" means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:

1. Is designed solely to seclude a person; and
2. Contains less than 50 square feet of space.

Education Code 37.0021(b)(2), (c).

Sec. 4. RESTRAINT

A Richard Milburn Academy employee, volunteer, or independent contractor may use restraint only in an emergency and with the following limitations:

1. Restraint shall be limited to the use of such reasonable force as is necessary to address the emergency.
2. Restraint shall be discontinued at the point at which the emergency no longer exists.
3. Restraint shall be implemented in such a way as to protect the health and safety of the student and others.
4. Restraint shall not deprive the student of basic human necessities.

19 TAC 89.1053(c).

a) Definitions

"Restraint" means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student's body.

Education Code 37.0021(b)(1); 19 TAC 89.1053(b)(2).

"Restraint" does not include the use of:

1. Physical contact or appropriately prescribed adaptive equipment to promote normative body positioning and/or physical functioning;
2. Limited physical contact with a child to promote safety (*e.g.*, holding a student's hand), to prevent a potentially harmful action (*e.g.*, running into the street), to teach a skill, or to provide comfort;
3. Limited physical contact or appropriately prescribed adaptive equipment to prevent a child from engaging in ongoing, repetitive self-injurious behaviors; or
4. Seat belts and other safety equipment used to secure children during transportation.

19 TAC 89.1053(f).

"Emergency" means a situation in which a student's behavior poses a threat of:

1. Imminent, serious physical harm to the student or others; or
2. Imminent, serious property destruction.

19 TAC 89.1053(b)(1).

b) Training

Training for Richard Milburn Academy employees, volunteers, or independent contractors regarding the use of restraint shall be provided according to the requirements set forth at 19 TAC 89.1053(d).

c) Data Reporting

Cumulative data regarding the use of restraint must be electronically reported through the Public Education Information Management System in accordance with reporting standards specified by the Texas Education Agency.

Education Code 37.0021(i); 19 TAC 89.1053(f),(k).

d) Documentation

In a case in which restraint is used by Richard Milburn Academy employees, volunteers, or independent contractors, Richard Milburn Academy shall comply with the documentation requirements set forth at 19 TEX. ADMIN. CODE § 89.1053(e).

Sec. 5. TIME-OUT

A Richard Milburn Academy employee, volunteer, or independent contractor may use time-out with the

following limitations.

1. Physical force or threat of physical force shall not be used to place a student in time-out;
2. Time-out must only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student's individualized education program ("IEP") and/or behavior intervention plan ("BIP") if it is utilized on a recurrent basis to increase or decrease targeted behavior; and
3. Use of time-out shall not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.

19 TAC 89.1053(b)(3), (g).

"Time-out" means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

1. That is not locked; and
2. From which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

Education Code 37.0021(b)(3); 19 TAC 89.1053(b)(3).

a) Training

Training for Richard Milburn Academy employees, volunteers, or independent contractors regarding the use of time-out shall be provided according to the requirements set forth at 19 TEX. ADMIN. CODE § 89.1053(h).

b) Documentation

Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in the IEP or BIP. The ARD committee must use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use.

19 TAC 89.1053(i).

Sec. 6. PROHIBITED AVERSIVE TECHNIQUES

Richard Milburn Academy and employees, volunteers, and independent contractor of Richard Milburn Academy may not apply an aversive technique, or by authorization, order, or consent, cause an aversive technique to be applied, to a child.

Education Code 37.0023(b).

"Aversive technique" means a technique or intervention that is intended to reduce the likelihood of a behavior reoccurring by intentionally inflicting on a student significant physical or emotional discomfort or pain. The term includes a technique or intervention that:

1. is designed to or likely to cause physical pain, other than an intervention or technique permitted under Section 37.0011;

2. notwithstanding Section 37.0011, is designed to or likely to cause physical pain through the use of electric shock or any procedure that involves the use of pressure points or joint locks;
3. involves the directed release of a noxious, toxic, or otherwise unpleasant spray, mist, or substance near the student's face;
4. denies adequate sleep, air, food, water, shelter, bedding, physical comfort, supervision, or access to a restroom facility;
5. ridicules or demeans the student in a manner that adversely affects or endangers the learning or mental health of the student or constitutes verbal abuse;
6. employs a device, material, or object that simultaneously immobilizes all four extremities, including any procedure that results in such immobilization known as prone or supine floor restraint;
7. impairs the student's breathing, including any procedure that involves:
    a. applying pressure to the student's torso or neck; or
    b. obstructing the student's airway, including placing an object in, on, or over the student's mouth or nose or placing a bag, cover, or mask over the student's face;
8. restricts the student's circulation;
9. secures the student to a stationary object while the student is in a sitting or standing position;
10. inhibits, reduces, or hinders the student's ability to communicate;
11. involves the use of a chemical restraint;
12. constitutes a use of time-out that precludes the student from being able to be involved in and progress appropriately in the required curriculum and, if applicable, toward the annual goals included in the student's individualized education program, including isolating the student by the use of physical barriers; or
13. except as provided by Section 37.0023 (c), deprives the student of the use of one or more of the student's senses.

Education Code 37.0023(a).

PG-6.29 VIDEO SURVEILLANCE OF SPECIAL EDUCATION SETTINGS

Sec. 1. DEFINITIONS

For purposes of this policy, the following terms will have the meanings set forth below:

"**Parent**" means a person standing in parental relation to a child or an adult student who has reached age of majority and has not authorized another individual to act on their behalf,including a guardian, and whose child receives special education and related services and assigned to one or more self-contained classrooms or other special education settings for at least 50 percent of the instructional day.

"**Staff member**" means a teacher, related service provider, paraprofessional, counselor, or educational aide assigned to work in a self-contained classroom or other special education setting.

"**Board**" means a majority of the Richard Milburn Academy Board of Directors.

"School business day" means a day that campus or Richard Milburn Academy administrative offices are open.

"Time-Out" has the meaning assigned by Tex. Educ. Code § 37.0021.

"**Self-contained classroom**" means a classroom on a regular Richard Milburn Academy campus (*i.e.*, a campus that serves students in general education and students in special education) in which a majority of the students in regular attendance are provided special education and related services and have one of the following instructional arrangements/settings described in the Student Attendance Accounting Handbook

adopted by the Texas Education Agency ("TEA"):

1. self-contained (mild/moderate/severe) regular campus;
2. full-time early childhood (preschool program for children with disabilities) special education setting;
3. residential care and treatment facility--self-contained (mild/moderate/severe) regular campus;
4. residential care and treatment facility--full-time early childhood special education setting;
5. off home campus--self-contained (mild/moderate/severe) regular campus; or
6. off home campus--full-time early childhood special education setting.

"**Other special education setting**" means a classroom on a separate Richard Milburn Academy campus (*i.e.*, a campus that serves only students who receive special education and related services) in which a majority of the students in regular attendance are provided special education and related services and have one of the following instructional arrangements/settings described in the Student Attendance Accounting Handbook adopted by the TEA:

1. residential care and treatment facility--separate campus; or
2. off home campus--separate campus.

"**Incident**" means an event or circumstance that involves alleged "abuse" or "neglect," as those terms are described in Texas Family Code § 261.001, of a student by a Richard Milburn Academy employee or alleged "physical abuse" or "sexual abuse," as those terms are described in Texas Family Code § 261.410, of a student by another student; and allegedly occurred in a self-contained classroom or other special education setting in which video surveillance is conducted under Tex. Educ. Code § 29.022.

Sec. 2. PROMOTION OF STUDENT SAFETY

Richard Milburn Academy will, upon receipt of a written request authorized by this policy, provide equipment, including a video camera, to the school or schools specified in the request

A school or campus that receives equipment due to a video surveillance request shall place, operate, and maintain one or more video cameras in self-contained classrooms and other special education settings in which a majority of the students in regular attendance are provided special education and related services and are assigned to one or more self-contained classrooms or other special education setting for at least 50 percent of the instructional day.

Richard Milburn Academy may not:

1. allow regular or continual monitoring of video recorded under this policy; or
2. use video recorded under this policy for routine teacher evaluation or monitoring or for any purpose other than the promotion of student safety.

Sec. 3. PROCEDURES FOR REQUESTING VIDEO SURVEILLANCE

Video surveillance under this policy is for the purpose of promoting student safety in certain self- contained classrooms and other special education settings.

a) Parent or Adult Student Request

A parent or adult student may request in writing that equipment be provided to the school or campus at which the parent's child receives special education services in one or more self- contained classrooms or other special education settings.

b) Board Request

The Board may request in writing that equipment be provided to one or more specified schools or campuses at which one or more children receive special education services in self-contained classrooms or other special education settings.

c) Principal or Assistant Principal Request

The Principal or Assistant Principal of a school or campus at which one or more children receive special education services in self-contained classrooms or other special education settings may request in writing that equipment be provided to the Principal's or Assistant Principal's school or campus.

d) Staff Member Request

A staff member assigned to work with one or more children receiving special education services in a self-contained classroom or other special education settings may request in writing that equipment be provided to the school or campus at which the staff member works.

e) Additional Procedures

A school or campus that receives equipment as a result of the request of a parent or staff member is required to place equipment only in classrooms or settings in which the parent's child is in regular attendance or to which the staff member is assigned, as applicable.

A school or campus that receives equipment as a result of the request by the Board, Principal, or Assistant Principal is required to place equipment only in classrooms or settings identified by the requestor, if the requestor limits the request to specific classrooms or settings.

Richard Milburn Academy shall designate an administrator (the "Administrator") at the Richard Milburn Academy Central Office with responsibility for coordinating the provision of equipment to schools and campuses in compliance with this policy.

A written request must be submitted and acted on as follows:

1. A parent, staff member, or Assistant Principal must submit a request to the Principal or designee of the school or campus addressed in the request, and the Principal or designee must provide a copy of the request to the Administrator.
2. A Principal must submit a request by the Principal to the Administrator.
3. The Board must submit a request to the Administrator, and the Administrator must provide a copy of the request to the Principal or designee of the school or campus addressed in the request.

Richard Milburn Academy shall provide a response to a request not later than the seventh school business day after receipt of the request by the person to whom it must be submitted that either authorizes the request or states the reason for denying the request. Unless granted an extension by the TEA, the school or campus must begin operation of a video camera in compliance with this policy not later than the 45th school business

day, or the first school day after the 45th school business day if that day is not a school day, after the request is authorized.

A parent of a student whose admission, review, and dismissal ("ARD") committee has determined that the student's placement for the following school year will be in a classroom or other special education setting in which a video camera may be placed to make a request for the video camera by the later of the date on which the current school year ends, or the 10th school business day after the date of the placement determination by the ARD committee. Unless the TEA grants an extension of time, the school or campus must begin operation of a video camera not later than the later of the 10th school day of the fall semester or the 45th school business day, or the first school

Sec. 4. COORDINATION OF EQUIPMENT

The administrator responsible for coordinating equipment delivery to campuses shall be the Director of Special Populations.

Sec. 5. ADVANCE WRITTEN NOTICE TO CAMPUS STAFF AND PARENTS

Before Richard Milburn Academy activates a video camera in a classroom or other special education setting, Richard Milburn Academy shall provide written notice of the placement to all school or campus staff and to the parents of each student attending class or engaging in school activities in the classroom or setting. This notice shall be in the form of a "Notice of Installation of Video and Audio Recording Equipment" form adopted by the Superintendent or designee, and the form shall be distributed to all parties prior to the start of recording.

At Richard Milburn Academy's discretion, campuses may post a notice at the entrance of any self- contained classroom or other special education setting in which video cameras are placed stating that video and audio surveillance are conducted in the classroom or setting

Sec. 6. TIMES OF OPERATION

Cameras shall be operational at all times during the instructional day when students are in the self- contained classroom or other special education setting.

A school or campus that places a video camera in a classroom or other special education setting shall operate and maintain the video camera in the classroom or setting, as long as the classroom or setting continues to satisfy the requirements under this policy, for the remainder of the school year in which the school or campus received the request, unless the requestor withdraws the request in writing.

If for any reason a school or campus will discontinue operation of a video camera during a school year, not later than the fifth school day before the date the operation of the video camera will be discontinued, the school or campus must notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue unless requested by a person eligible to make a request.

Not later than the 10th school day before the end of each school year, the school or campus must notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue during the following school year unless a person eligible to make a request for the next school year submits a new request.

This policy applies to placement, operation, and maintenance of a video camera in a self-contained classroom or other special education setting during the regular school year and extended school year services.

Sec. 7. RESTRICTIONS ON VIDEO RECORDING

Video cameras must be capable of covering all areas of the classroom or other special education setting, including a room attached to the classroom or setting used for time-out. Video cameras must also be capable of recording audio from all areas of the classroom or other special education setting, including a room attached to the classroom or setting used for time-out.

The inside of a bathroom or any area in the classroom or other special education setting in which a student's clothes are changed may not be visually monitored, except for incidental coverage of a minor portion of a bathroom or changing area because of the layout of classroom or setting.

Sec. 8. RETENTION OF RECORDINGS

Richard Milburn Academy shall retain video recordings from a video camera placed under this policy for at least three months after the date the video was recorded.

If a person described in Section 8-a (Requests to View a Video Recording) as eligible to receive a copy of a video requests to view a video recording from a video camera placed under this policy, Richard Milburn Academy must retain the recording from the date of receipt of the request until the person has viewed the recording and a determination has been made as to whether the recording documents an alleged incident. If the recording documents an alleged incident, Richard Milburn Academy shall retain the recording until the alleged incident has been resolved, including the exhaustion of all appeals.

A video recording under this policy is a governmental record only for purposes of Texas Penal Code § 37.10.

Sec. 9. CONFIDENTIALITY OF VIDEO RECORDINGS

A video recording of a student is confidential and may not be released or viewed except as provided by Tex. Educ. Code § 29.022; the Family Educational Rights and Privacy Act of 1974 ("FERPA"); or other applicable law.

a) Requests to View a Video Recording

Richard Milburn Academy will release a recording for viewing by:

1. A Richard Milburn Academy employee who is involved in an alleged incident that is documented by the recording and has been reported to Richard Milburn Academy, on request of the employee;
2. A parent of a student who is involved in an alleged incident that is documented by the recording and has been reported to Richard Milburn Academy, on request of the parent;
3. Appropriate Department of Family and Protective Services ("DFPS") personnel as part of an investigation under Texas Family Code 261.406;
4. A peace officer, a school nurse, a district-level or campus-level administrator trained in de-escalation and restraint techniques as provided by commissioner rule, or a human resources staff member designated by the Board in response to a report of an alleged incident or an investigation of Richard Milburn Academy personnel or a report of alleged abuse committed by a student; or
5. Appropriate TEA or State Board for Educator Certification personnel or agents as part of an investigation.

A contractor or employee performing job duties relating to the installation, operation, or maintenance of video equipment or the retention of video recordings who incidentally views a video recording is not in violation of this policy.

If a person described by subsections (4) or (5) above who views the video recording believes that the recording documents a possible violation under Subchapter E, Chapter 261, Texas Family Code, the person shall notify the DFPS for investigation in accordance with Texas Family Code § 261.406.

If any person described by subsections (3), (4), or (5) above who views the recording believes that the recording documents a possible violation of Richard Milburn Academy policy, the person may allow access to the recording to appropriate legal and human resources personnel. A recording believed to document a possible violation of Richard Milburn Academy policy relating to the neglect or abuse of a student may be used as part of a disciplinary action against Richard Milburn Academy personnel and shall be released at the request of the student's parent or adult student in a legal proceeding.

If Richard Milburn Academy determines that the recording is an "education record," Richard Milburn Academy shall release the recording in accordance with FERPA. State law does not limit the access of a student's parent or adult student to a record regarding the student under FERPA or other law.

In order to review recordings for potential release, and for operation and maintenance of the equipment, the following individuals shall have access to the video equipment: IT Department, Security Officers, Campus Administrators, or Central Office Staff Members.

Sec. 10. PROCEDURES FOR REPORTING A COMPLAINT AND/OR REQUESTING TO VIEW RECORDING

Video and audio recording equipment shall be used for safety purposes to access documented, specific incidents. To report a complaint of alleged abuse or neglect to Richard Milburn Academy and/or to request to view a recording, a written "Incident Report Form," as adopted by the Superintendent or designee, shall be used by the requestor. This form will be completed to the extent of known information and returned to the Superintendent or designee for validation.

Sec. 11. GRIEVANCE PROCEDURES

The special education dispute resolution procedures in 34 C.F.R. §§ 300.151-300.153 and 300.504-300.515, do not apply to complaints alleging that Richard Milburn Academy has failed to comply with Tex. Educ. Code § 29.022. Complaints alleging violations of Richard Milburn Academy's video surveillance obligations for special education settings under Tex. Educ. Code
§ 29.022 must be addressed through Richard Milburn Academy's Student and Parent Grievance Process adopted by the Board.

Richard Milburn Academy, a parent, staff member, or an administrator may request an expedited review by the TEA of Richard Milburn Academy's (1) denial of a request, (2) request for an extension of time to begin operation of a video camera, or (3) determination to not release a video
recording to an individual. If Richard Milburn Academy, a parent, staff member or administrator requests an expedited review, the TEA shall notify all other interested parties of the request.

If an expedited review has been requested, the TEA shall issue a preliminary judgment as to whether Richard Milburn Academy is likely to prevail on the issue under a full review by the TEA. If the TEA determines Richard Milburn Academy is not likely to prevail, Richard Milburn Academy must fully comply with the policy notwithstanding an appeal of the TEA's decision. The TEA shall notify the requestor and

Richard Milburn Academy, if Richard Milburn Academy is not the requestor, of the TEA's determination.

Sec. 12. FUNDING

Richard Milburn Academy may solicit and accept gifts, grants, and donations from any person to implement the requirements in Tex. Educ. Code § 29.022. Richard Milburn Academy is not permitted to use Individuals with Disabilities Education Act, Part B, funds or state special education funds to implement the requirements of Tex. Educ. Code § 29.022.

Sec. 13. NO WAIVER OF IMMUNITY

The requirements described by this policy do not:

1. Waive any immunity from liability of Richard Milburn Academy, or of Richard Milburn Academy officers or employees; or
2. Create any liability for a cause of action against Richard Milburn Academy or against Richard Milburn Academy officers or employees.

PG-6.30 TEXAS DRIVING WITH DISABILITY PROGRAM INFORMATION

Richard Milburn Academy shall provide information about the Texas Driving with Disability Program to:

1. students who have a health condition or disability that may impede effective communication with a peace officer and: (a) who receive special education services under the Individuals with Disabilities Education Act; or (b) who are covered by Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794); and
2. the parents of students described above.

Information about the Texas Driving with Disability Program may be provided with any transition planning materials provided under Subchapter A, Chapter 29 of the Texas Education Code and shall be provided to each student who is 16 years of age or older and annually until the earlier of the student's:

1. graduation from high school; or
2. 21st birthday.

Tex. Educ. Code 29.0113