



TCSA Model Board Policy Series

Module 1 – Governance

Richard Milburn Academy

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PG-1.1 SCHOOL 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”.

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
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
Copperas Cove 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

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

Sec.2. RESPONSIBILITY FOR RICHARD MILBURN ACADEMY/TEXAS, INC. 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 Tex. Admin. Code § 100.1101(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.

- (3) 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.
- (4) 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.
- (5) Richard Milburn Academy/Texas, Inc. shall notify the Texas Education Agency in writing prior to initiating bankruptcy proceeding respecting the charter holder.
- (6) 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/Texas, Inc. open-enrollment charter or a charter delegation amendment approved by the Texas Education Agency division responsible for charter schools.

19 Tex. Admin. Code § 100.1101(b)-(c).

c) 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 Tex. Admin. Code § 100.1101(d).

d) Non-delegable Duties

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

- (7) Final authority to hear or decide employee grievances, citizen complaints, or parental concerns;
- (8) 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;
- (9) 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;
- (10) Final authority to adopt policies governing Richard Milburn Academy operations;
- (11) Final authority to approve audit reports under TEC, §44.008(d); and
- (12) Initial or 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 Tex. Admin. Code § 100.1033(b)(14)(C).

PG-1.3 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-1.4 ORIENTATION AND TRAINING

Sec. 1. BOARD MEMBER ORIENTATION AND TRAINING

Newly appointed members to the Board shall participate in a local orientation session to familiarize the new Board member with the Richard Milburn Academy/Texas, Inc. organization; including such items as the Articles of Incorporation, Bylaws, Board policies, and relevant portions of the Texas Education Code and the Texas Administrative Code related to governance of an open-enrollment charter school.

a) Training

Unless exempted pursuant to applicable law, each new member of the Board must complete an introductory required training course consisting of 12 instructional hours, excluding breaks, administrative tasks, and other non-instructional time, delivered by a registered course. The training course may not use self-instructional materials, unless as otherwise provided.

b) Timeline for Completion

Each new member of the Board must complete the required training within one calendar year of election or appointment to the Board.

c) Required Course Content

The required training shall include nine hours of instruction provided by a Texas Education Agency trainer or other trainer authorized in law, and consist of instruction in:

1. Basic school law;
2. Basic school finance;
3. Health and safety issues;
4. Accountability requirements related to the use of public funds;
5. Other requirements relating to accountability to the public;
6. Open meetings requirements under Texas Government Code, Chapter 551; and
7. Requirements relating to public records.

d) Additional Required Training

Each new Board member must also receive an additional three hours of training from any of the modules identified above.

e) Continuing Training

Each Board member who has completed the 12 hours of required training shall annually thereafter receive six hours of training, excluding breaks, administrative tasks, and other non-instructional time, delivered by a registered course provider delivered by an authorized trainer. Self-instructional continuing training materials may be used in no more than one hour of the required continuing training. A Board member may carry over as much as 25% of annual continuing training hours earned in excess of the required amount to meet the following year's training requirements.

Sec. 2. TRAINING FOR CHARTER SCHOOL OFFICERS

Richard Milburn Academy employees serving in the position of a Chief Executive and Central Administrative Officer, Campus Administrative officer, and/or Business Manager, as those positions are defined by the Texas Education Agency, shall complete all applicable trainings required under 19 Tex. Admin. Code §§ 100.1103–.1105.

Sec. 3. RECORD OF COMPLIANCE

All Board members, Chief Executive and Central Administrative Officers, Campus Administrative Officers, and Business Managers shall comply with initial and annual training requirements established in law. Richard Milburn Academy/Texas, Inc. shall document compliance with these requirements. *19 Tex. Admin. Code § 100.1108(1).*-

Sec. 4. CONTINUED SERVICE

Continued service as a member of the Board or as an Officer is conditioned on satisfaction of the training requirements set forth in 19 Tex. Admin. Code §§ 100.1102–.1105. *19 Tex. Admin. Code § 100.1108(2).*

Sec. 5. AUDIT DISCLOSURE

Richard Milburn Academy/ Texas, Inc. shall separately disclose, in its annual audit report of its financial and programmatic operations, a member of the Board or Officer who fails to complete the training requirements set forth in 19 Tex. Admin. Code §§ 100.1102–.1105 and who continues to serve in such capacity as of the date of the audit report. *19 Tex. Admin. Code § 100.1108(3).*

PG-1.5 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:

8. Cash Donations
9. Testamentary Bequests
10. Charitable Remainder Trusts
11. Charitable Lead Trusts
12. Tangible Personal Property
13. Oil, Gas and Mineral Interests
14. Life Insurance/Life Insurance Beneficiary Designations
15. Retirement Plan Beneficiary Designations
16. Securities
17. 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-1.6 ETHICS, CONFLICT 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: 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 III: CONFLICTS OF INTEREST

Sec. 1. STATEMENT ON 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 §§ 100.1131–100.1135, 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 §§ 100.1131–100.1135.
- (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 § 100.1133(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 below) 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 below) 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 §§ 100.1131-1134 (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. DEFINITIONS

The following terms shall have the following meaning:

- (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(16).

- (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 under **Sec. 1.6.2.5(iii)** above. 19 TAC § 100.1132(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.

PART IV: 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 § 100.1116.

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.

a) 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. 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. 8. 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. 9. NEPOTISM EXCEPTIONS

The nepotism exceptions described in 19 TAC § 100.1115 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. 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 V: 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 party seeking to enter into a financial transaction with Richard Milburn Academy, and such party has a current or former Board member, administrator, or officer who is:
 - a. A Board member, administrator, or officer of Richard Milburn Academy; or
 - b. Related within the third degree of consanguinity or affinity, as determined under Chapter 573, Government Code, to a Board member, administrator, or officer of Richard Milburn Academy;
2. Richard Milburn Academy/Texas, Inc.'s related organizations, joint ventures, and jointly governed organizations;
3. Richard Milburn Academy's Board members, administrators, or officers or a person related to a Board member, administrator, or officer within the third degree of consanguinity or affinity, as determined under Chapter 573, Government Code; and
4. Any other disqualified person, as that term is defined by 26 U.S.C. § 4958(f).

For purposes of subsection 1 above, a person is a former Board member, administrator, or officer if the person served in that capacity within one year of the date on which a financial transaction between Richard Milburn Academy/Texas, Inc. and a related party occurred.

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.

PART VI: 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 VII: 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

- 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: _____

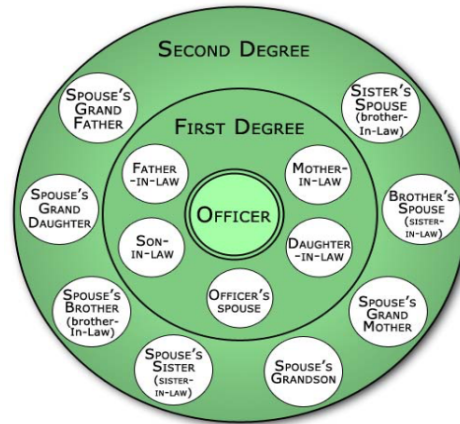
EXHIBIT B

NEPOTISM CHART

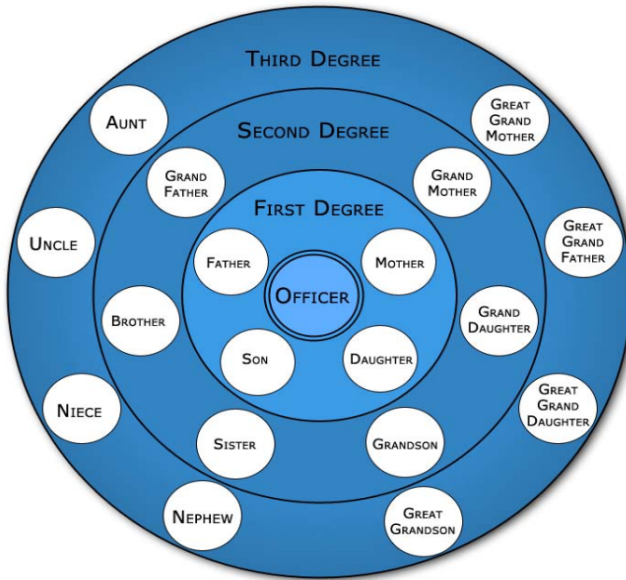
NEPOTISM CHART

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-1.7 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:

4. Paper;
5. Film;
6. A magnetic, optical, solid state, or other device that can store an electronic signal;

7. Tape;
8. Mylar; and
9. Any physical material on which information may be recorded, including linen, silk, and vellum.

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 by 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 Academy website.

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: 13003 Jones Maltsberger Road, San Antonio, TX 78247-4220
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 manipulation of 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).*

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) 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).*

h) 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)*.

i) 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 TPIA DUE TO CATASTROPHE

The requirements of the TPIA do not apply if Richard Milburn Academy is currently impacted by a catastrophe and complies with the requirements below for declaring a suspension period.

“Catastrophe” means a condition or occurrence that 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.

“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, which 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.

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. MISCELLANEOUS

a) Limit on Personnel Time for Large or Frequent Requests

After Richard Milburn Academy personnel collectively have spent 36 hours of time producing public information for a requestor during the Richard Milburn Academy fiscal year, Richard Milburn Academy shall charge the requestor for any additional personnel time spent producing information for the requestor, in accordance with law.

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 of the 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.

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.

v. 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.

vi. Acceptance of Charges

If Richard Milburn Academy provides a requestor with the estimate of charges 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. If the requestor fails or refuses to submit payment, the requestor is considered to have withdrawn the request.

vii. 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.

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-1.8 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. SUPERINTENDENT PARTICIPATION

The Board shall provide the Superintendent an opportunity to present at a meeting an oral or written recommendation to the Board on any item that is voted on by the Board at the meeting.

Sec. 3. MEETINGS OPEN TO THE PUBLIC

Every Board meeting shall be open to the public. The Board may, however, exclude a witness from a hearing during the examination of another witness in a matter being investigated and may enter into a closed meeting, as provided by law. *Gov't Code 551.002, .084.*

Sec. 4. 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. 5. RECORDING OPEN MEETINGS

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. 6. MEETING MINUTES

The Board shall keep minutes or make a recording of each open meeting. The minutes shall state the subject matter of each deliberation and indicate each vote, order, decision, or other action taken. *Gov't Code 551.021.*

The minutes and recording are public records and shall be available for public inspection and copying on request to the Superintendent or designee. *Gov't Code 551.022.*

Sec. 7. 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

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 72 hours before the scheduled time 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 72 hours before the scheduled time of the meeting. *Gov't Code 551.043(a), .051.*

If Richard Milburn Academy is required to post notice of a meeting on the Internet, 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.

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) Internet Posting of Agenda/Notice

If Richard Milburn Academy maintains an Internet website, in addition to the other place at which notice is required to be posted, the Board must also concurrently post notice of a meeting on the Internet website.

If Richard Milburn Academy's geographic boundaries contain all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more, the Board must also, concurrently with the notice, post on the Richard Milburn Academy Internet website the agenda for a Board meeting, if the agenda differs from the posted notice.

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.*

d) 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.

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 agreed to 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. 8. QUORUM

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

Sec. 9. SECRET BALLOT

No vote shall be taken by secret ballot.

Sec. 10. 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. 11. 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. 12. VIDEO AND AUDIO RECORDING OF MEETING

If Richard Milburn Academy has a student enrollment of 10,000 or more, the Board shall make a video and audio recording of reasonable quality of each:

1. Regularly scheduled open meeting that is not a work session or a special called meeting;
and
2. Open meeting that is a work session or special called meeting at which the Board votes on any matter or allows public comment or testimony.

The Board shall make available an archived copy of the video and audio recording of each meeting on the Internet not later than seven days after the date the recording was made. The Board shall maintain the archived recording on the Internet for not less than two years after the date the recording was first made available. The Board is exempt from the requirements in this paragraph if the Board's failure to make the required recording of a meeting available is the result of a catastrophe, as defined by Government Code 551.0411 (see **Catastrophe**, Part 1, Section 7-f), or a technical breakdown. Following a catastrophe or breakdown, the Board must make all reasonable efforts to make the required recording available in a timely manner.

The Board may make the archived recording available on an existing Internet site, including a publicly accessible video-sharing or social networking site. The Board is not required to establish a separate Internet site and provide access to archived recordings of meetings from that site.

If Richard Milburn Academy maintains an Internet site, Richard Milburn Academy shall make available on that site, in a conspicuous manner, the archived recording of each meeting or an accessible link to the archived recording of each such meeting.

Gov't Code 551.128(b-1)–(b-6).

Sec. 13. INTERNET BROADCAST

If Richard Milburn Academy and the Board are not subject to the provisions above at **Video and Audio Recording of Meeting** (Part I, Section 12), the Board may broadcast an open meeting over the Internet. If the Board broadcasts a meeting over the Internet, it shall establish an Internet site and provide access to the broadcast from that site. The Board shall provide on the Internet site the same notice of the meeting, within the time required for posting that notice, that the Board is required to post under the Open Meetings Act. *Gov't Code 551.128(b), (c).*

Sec. 14. 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 the meeting.

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. 15. 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 meeting unless 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.

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.

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-3.1 (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-3.1 §4 (Parent and Student Complaints and Grievances), subject to the time limitations referenced in Board Policy PG-3.1§3 (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 §4 (Equal Educational Opportunity) and Board Policy PG-3.30 §1 (Parent and Student Complaints and Grievances).

Public complaints: Board Policy Module 1 – Governance PG- 1.10 (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-1.9 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. 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 § 100.1065 (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.

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.

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 Rule.

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.

Sec. 4. PERSONAL USE OF PUBLIC PROPERTY

In compliance with Commissioner of Education Rule, 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.

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).

In further compliance with Commissioner Rule, only incidental amounts of employee time, comparable to a five seven minute coffee breaks during each day, may be used by employees for such personal matters.

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.

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.

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.

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.

Sec. 8. RETURN OF RICHARD MILBURN ACADEMY/TEXAS, INC. 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-1.10 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.

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 “mini-trial” at any level.

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 refileing is within the designated time for filing.

Sec. 4. COMPLAINTS AND APPEALS

a) 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.

b) 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.

c) *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. *Tex. Gov't Code §§551.001 (3) (B-L); 551.007*. 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-1.11 RECORDS MANAGEMENT

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. “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.
- D. “Records” 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 Richard Milburn Academy or any of its officers or employees, pursuant to law or in the transaction of public business. The term “records” does not include:
 - 1. Extra identical copies of documents created only for convenience of reference or research by Richard Milburn Academy officers or employees;
 - 2. Notes, journals, diaries, and similar documents created by Richard Milburn Academy 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.
- 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 Liaison Officers” means the persons designated under Section 9 of this policy.
- H. “Records Management Committee” means the committee established under Section 5 of this policy.
- I. “Records Management Officer” means the person designated in Section 4 of this policy.
- J. “Records management plan” means the plan developed under Section 6 of this policy.
- K. “Records Retention Schedule” means a document issued by the Texas State Library and Archives Commission under authority of Subchapter J, Chapter 441, Government Code, establishing mandatory retention periods for local government records retained by Richard Milburn Academy.
- L. “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.

Sec. 2. 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.

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 Executive Administrative Secretary for the Superintendent 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 Local Government Records Act.

Sec. 5. ESTABLISHMENT OF RECORDS MANAGEMENT COMMITTEE; DUTIES

The Records Management Officer, in consultation with the Superintendent, shall appoint a Records Management Committee consisting of:

- A financial officer for Richard Milburn Academy; and
- An executive or administrative officer for Richard Milburn Academy

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.

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:

- a. Administer the records management program and provide assistance to department heads in its implementation;

- b. Plan, formulate, and prescribe records disposition policies, systems, standards, and procedures;
- c. 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;
- d. Develop procedures to ensure the permanent preservation of the historically valuable records of Richard Milburn Academy;
- e. Establish standards for filing and storage equipment and for record keeping supplies;
- f. Study the feasibility of and, if appropriate, establish a uniform filing system and a forms design and control system for Richard Milburn Academy;
- g. 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;
- h. 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;
- i. Disseminate to the Board, department heads, and principals' information concerning state laws and administrative rules relating to local government records;
- j. Instruct Records Liaison Officers and other personnel in policies and procedures of the records management plan and their duties in the records management program;
- k. 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;
- l. 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;
- m. 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;
- n. Report annually to the Superintendent on the implementation of the records management plan in each department of Richard Milburn Academy; and

- o. 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:

- 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. 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 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. 10. 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. 11. RECORDS CONTROL SCHEDULES TO BE DEVELOPED; APPROVAL; FILING WITH STATE

- a. 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.
- b. 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.
- c. 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.
- d. Before its adoption, a records control schedule must be submitted to and accepted for filing by the director 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.

Sec. 12. IMPLEMENTATION OF RECORDS CONTROL SCHEDULES; DESTRUCTION OF RECORDS UNDER SCHEDULE

- a. 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.
- b. 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.
- c. 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.

PG-1.12 RECORDS RETENTION SCHEDULE

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/slr/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-1.13 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.

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.

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.

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. Parental rights to visit;
2. Escorts by Richard Milburn Academy personnel;
3. Access to common areas of the campus;
4. Access to classrooms;
5. Drop off and release of students; and
6. Eligibility to serve as volunteers.

Sec. 2. NOTICE OF ENTRY BY REGISTERED SEX OFFENDERS

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-1.14 INTERNET SAFETY

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.

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. COMPLIANCE WITH THE REQUIREMENTS OF CIPA

- a) Technology Protection Measures

A Technology Protection Measure is a specific technology that blocks or filters Internet access.¹ It must protect against access by adults and minors to visual depictions that are obscene, involve

¹ As defined by CIPA, the term “technology protection measure” means a specific technology that blocks or filters Internet access to visual depictions that are:

- 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 2246 of title 18, United States Code.

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:

1. Unauthorized access, including so-called “hacking” and other unlawful activities; and
2. 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 disabling or otherwise modifying any technology protection measures shall be the responsibility of each Principal or designee.

e) Education

Richard Milburn Academy will advocate and educate 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 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.

PG-1.15 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-1.16 EMERGENCY PLANS

Sec. 1. MULTHAZARD 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 (TSSC) in conjunction with the governor's office of homeland security and the Commissioner of 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).

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;
 9. Provisions for responding to a train derailment, but only if a school is located within 1,000 yards of a railroad track as measured from any point on Richard Milburn Academy's real property boundary line; and
 10. Provisions for responding to an active shooter emergency.

Richard Milburn Academy may use any available community resources in developing the MEOP.

Education Code 37.108(d), (f)-(g).

b) MEOP Review

Richard Milburn Academy shall submit its MEOP to the TSSC upon request and as required with the TSSC review cycle developed under Education 37.2071(a).

i. Noncompliance Notification

The TSSC 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 and stating that the deficiencies must be corrected and that Richard Milburn Academy must resubmit the revised plan to the TSSC.

If Richard Milburn Academy fails to submit its MEOP to the TSSC, the TSSC shall provide Richard Milburn Academy with written notice stating that Richard Milburn Academy has failed to submit a plan and must submit a plan for review and verification.

ii. Failure to Comply after Notice

If Richard Milburn Academy has not corrected plan deficiencies or has failed to submit a plan three months after the date of initial notification from the TSSC, the TSSC shall provide written notice to Richard Milburn Academy and the TEA that Richard Milburn Academy has not complied with the requirements and must comply immediately.

If Richard Milburn Academy has not corrected plan deficiencies or has failed to submit a plan six months after the date of initial notification, the TSSC shall provide written notice to Richard Milburn Academy stating that Richard Milburn Academy must hold a public hearing as outlined in Sec. 1-c below (Public Hearing due to Noncompliance), below.

*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

RMA will conduct safety audits in compliance to the Texas School Safety Center's newly established open-enrollment charter school safety and security audit cycle. At least once every three years, Richard Milburn Academy shall conduct a safety and security audit of Richard Milburn Academy facilities. To the extent possible, Richard Milburn Academy shall follow safety audit and security audit procedures developed by the TSSC or a person included in the TSSC's registry of persons providing school safety or security consulting services. Charter school audits must be completed during the cycle as required by Texas Education Code (TEC 37.108).

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 TSSC;
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 TSSC; and
5. Consult with local law enforcement agencies on methods to increase law enforcement presence near school campuses.

Education Code 37.109(b).

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. 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. 5. 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 38.030.

Sec. 6. 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. 7. 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-1.17 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.

“Team” means a threat assessment and safe and supportive school team established by the Board.

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) regarding the team’s activities to the TEA.

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.

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.

e) Providing Mental Health Care Services

A team may not 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.

f) 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.

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.

g) 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.

h) 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.

Sec. 2. TRAUMA-INFORMED CARE PLAN

a) Plan Requirements

Richard Milburn Academy shall adopt and implement a plan requiring the integration of trauma-informed practices in each school environment. The plan 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.

b) Training Requirements

Methods for increasing awareness and implementation of trauma-informed care must be discussed in training provided:

- 1. Through a program selected from the list of recommended best practice-based programs and research-based practices established under Health & Safety Code 161.325;
- 2. As part of any new employee orientation for all new educators; and
- 3. To existing educators on a schedule adopted by the TEA at intervals necessary to keep educators informed of developments in the field.

Richard Milburn Academy shall keep records of each training conducted, to include the name of each staff member who participated in the training.

c) Reports to TEA

Richard Milburn Academy shall report annually to TEA the following information for the school as a whole and for each school campus:

- 1. The number of teachers, principals, and counselors employed by Richard Milburn Academy who have completed the required training; and
- 2. The total number of teachers, principals, and counselors employed by Richard Milburn Academy.

Education Code 38.036.

PG-1.18 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;
- b. The employees and agents of Richard Milburn Academy/Texas, Inc. and Richard Milburn Academy; and
- c. Any management company under contract with Richard Milburn Academy/Texas, Inc. or Richard Milburn Academy.

19 TAC § 100.1049(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.

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.

State Board of Education Operating Rule § 4.3.

Sec. 3. REQUIRED DISCLOSURES

a) *Disclosing Campaign Contributions*

d. Any person, corporation, or other legal entity associated with Richard Milburn Academy 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*

e. A person, corporation, or other legal entity associated with Richard Milburn Academy 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 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 § 100.1049(b).*



TCSA Model Board Policy Series

Module 2 – Instruction

Richard Milburn Academy

13003 Jones Maltzberger Rd.

San Antonio, Texas 78247

830-557-6181

www.rmaschools.org

*Adopted by Board of Directors
1/14/2021*

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PG - 2.1 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. 2.2 EDUCATIONAL PROGRAM IN GENERAL

Sec. 1. SCHOOL YEAR

Richard Milburn Academy shall operate so that it provides the minimum number of instructional days specified in the charter contract currently on file with the State of Texas and as specified by Education Code 25.081.

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).

Sec. 5. CHARACTER TRAITS 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.

This program shall be implemented in accordance with guidelines published by the

Commissioner of Education / State Board of Education.

Education Code 29.906.

Sec. 6. 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. 7. RECOGNITION DATES

Richard Milburn Academy will regularly observe the following recognition days, weeks, and months by appropriate activities in public schools:

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 love 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 25.082. *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 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. 8. 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.-2.3 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)*.

h) Languages Other than English

A student who satisfies a graduation credit requirement related to a language other than English 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(l)*.

i) 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(m)*.

Richard Milburn Academy may allow a student who receives a certificate to participate in a graduation with students receiving high school diplomas.

PG.-2.4 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; or
2. The student successfully completes an individualized education program.

Education Code 28.025(c).

a) Individual Graduation Committee

Without complying with the requirements discussed above, a student may receive a diploma if the student is eligible for a diploma as determined by an individual graduation committee (IGC).
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) 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).

e) 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)*.

f) 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)*.

g) 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).

h) 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.

i) 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)e; 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.-2.5 END OF COURSE ASSESSMENTS

Sec. 1. END-OF-COURSE ASSESSMENTS (HIGH SCHOOL LEVEL)

Unless otherwise exempted by law, a student enrolled in a course for which an end-of-course (“EOC”) assessment exists as required by Education Code 39.023(c) shall take the appropriate assessment. *19 TAC 101.3021(a).*

Sec. 2. STUDENTS IN GRADE 8 OR LOWER

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. *19 TAC 101.3021(d).*

Sec. 3. ASSESSMENT REQUIREMENTS FOR GRADUATION

A student must meet satisfactory performance on a required EOC assessment 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.

a) Exceptions – English I or English II

A student who was administered separate reading and writing EOC assessments 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 English language learners who meet the criteria in 19 TAC 101.1007.

19 TAC 101.3022(b), (c).

b) 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 2011–12 spring administration, the student is not required to take the corresponding EOC assessment. 19 TAC 101.3021(e), .3022.

Sec. 4. SUBSTITUTE ASSESSMENTS

A student may use certain assessments as substitute assessments approved by the Commissioner of Education (“Commissioner”) in place of an EOC assessment to meet the student’s assessment graduation requirements. A satisfactory score on an approved substitute assessment may be used in place of only one specific EOC assessment, unless otherwise allowed under Commissioner rule.

A student at any grade level is eligible to use a substitute assessment in circumstances approved by the Commissioner if:

1. A student was administered an approved substitute assessment for an equivalent course in which the student was enrolled;
2. A student received a satisfactory score on the substitute assessment as determined by the Commissioner and provided in the chart at 19 Administrative Code 101.4002(b); and
3. Using a Texas Success Initiative (TSI) assessment, a student also meets the following criteria:
 - a. A student must have been enrolled in a college preparatory course for English language arts or mathematics and have been administered an appropriate TSI assessment at the end of that course.
 - i. A student under this provision who meets all TSI English language arts score requirements under Commissioner rule satisfies both the English I and English II EOC assessment graduation requirements.
 - ii. A student under this provision may satisfy an assessment graduation requirement in such a manner regardless of previous performance on an Algebra I, English I, or English II EOC assessment.
 - b. A student who did not meet satisfactory performance on the Algebra I or English II EOC assessments after retaking the assessment may use the corresponding TSI assessment in place of that EOC assessment.
 - i. For a student under this provision who took separate reading and writing assessments for the English II EOC assessment and who did not meet the English II assessment graduation requirement using those tests as specified in Commissioner rule relating to assessment requirements for graduation, the separate TSI reading or writing assessment may not be used to substitute for the corresponding English II reading or writing EOC assessment.

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. If a student sits

for an EOC assessment, Richard Milburn Academy may not mark the substitute assessment bubble for that administration.

A student who fails to perform satisfactorily on the PSAT or the ACT-PLAN, or any versions of these tests, must take the appropriate EOC assessment to meet the assessment graduation

requirements for that subject. However, a student who does not receive a passing score on the EOC assessment and retakes a PSAT-related assessment or a pre-ACT test (or any version of these tests) is eligible to meet the requirements for using a substitute assessment.

19 TAC 101.4002.

a) **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 101.4005.

Sec. 5. 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).*

Sec. 6. 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-5).*

Sec. 7. 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 admission, review and dismissal ("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 to take 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 Individualized Education Program ("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.

Beginning with the 2011–2012 school year, all grades 9–12 students 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).

Sec. 8. 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).*

Sec. 9. 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).*

PG.-2.7 SELECTION AND ADOPTION OF INSTRUCTIONAL MATERIALS

Sec. 1. DEFINITIONS

“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 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 31.1002(1).

“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)*.

“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

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)*.

a) Notice to State Board of Education (“SBOE”)

Each year, during a period established by the SBOE, the Board shall notify the SBOE of instructional materials selected in accordance with Education Code 31.101. *Education Code 31.101(a)*.

i. Foundation Curriculum

For subjects in the foundation curriculum, the Board shall notify the SBOE of the instructional materials it selects from the instructional materials list, including the Commissioner of Education’s (“Commissioner”) instructional materials list. *Education Code 31.101(a)(1)*.

ii. Enrichment Textbooks

For a subject in the enrichment curriculum, the Board shall notify the SBOE of instructional material it selects from the instructional materials list, including the Commissioner’s instructional materials list, or that it selected materials that do not appear on the list. *Education Code 31.101(a)(2)*.

iii. Open Education Resource Instructional Materials

In selecting material each year, Richard Milburn Academy may consider the use of open education resource instructional materials. *Education Code 31.101(b)*.

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)*.

b) **Supplemental Materials**

The Board may select supplemental instructional materials adopted by the SBOE, as set forth at Education Code 31.035. If the Board selects supplemental instructional materials, Richard Milburn Academy shall certify to Texas Education Agency (“TEA”) that the supplemental instructional materials, in combination with any other instructional materials or supplemental instructional materials used by Richard Milburn Academy, cover the essential knowledge and skills for the course. *Education Code 31.035(d), (f)*.

c) **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)*.

d) **Duration of Selection**

iv. Listed Materials

If Richard Milburn Academy selects subscription-based instructional material on the SBOE instructional materials list or electronic instructional material on the Commissioner’s instructional materials list, Richard Milburn Academy may cancel the subscription and subscribe to new instructional materials on the SBOE list or electronic instructional material on the Commissioner’s list before the end of the state contract period if:

1. Richard Milburn Academy has used the instructional material for at least one school year;

and

2. TEA approves the change based on a written request to TEA by Richard Milburn Academy that specifies the reasons for changing the electronic textbook or instructional material used by Richard Milburn Academy.

Education Code 31.101(e).

v. *Other Materials*

For instructional material that is not on the instructional materials list, Richard Milburn Academy must use the instructional materials for the period of the review and adoption cycle the SBOE has established for the subject and grade level for which the instruction material is used. *Education Code 31.101(d).*

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.-2.8 MAKE UP WORK

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. 1. 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. 2. LATE PROJECTS

Late projects will be accepted within the grading period. All late work will be graded and added to the grade book. An action plan to complete all missed assignments will be created by the teacher. Five points per week will be deducted from each assignment.

PG.-2.9 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 shall 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.-2.10 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

Richard Milburn Academy shall annually evaluate its career and technical education programs.

19 TAC 75.1025.

d) Annual Notification

Prior to the beginning of each school year, the Superintendent shall advise students, parents, employees, and the general public that all career and technical education opportunities will be offered without regard to race, color, national origin, sex, or disability. 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.-2.11 COMPENSATORY AND ACCELERATED 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. ACCELERATED INSTRUCTION – STATE ASSESSMENT PERFORMANCE

Each time a student fails to perform satisfactorily on an assessment instrument administered under Education Code 39.023(c) in the Richard Milburn Academy shall provide to the student accelerated instruction in the applicable subject area. Accelerated instruction may require participation of the student before or after

normal school hours and may include participation at times of the year outside normal school operations.

A student who fails to perform satisfactorily on an assessment instrument required for promotion to the ninth grade and who is promoted to the next grade level must complete accelerated instruction before placement in the next grade level. A student who fails to complete required accelerated instruction may not be promoted.

For each student who fails to perform satisfactorily on an assessment identified above, Richard Milburn Academy shall allow attempts to re-take the assessment and perform satisfactorily as required under Education Code 28.0211.

Education Code 28.0211.

Sec. 5. ACCELERATED READING INSTRUCTION PROGRAM

Richard Milburn Academy shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to each student in kindergarten, first grade, or second grade who is determined, on the basis of reading instrument results, to be at risk for dyslexia or other reading difficulties. The Superintendent shall determine the form, content, and timing of the program.

Richard Milburn Academy shall provide additional reading instruction and intervention to each student given the seventh-grade reading assessment, as appropriate to improve the student's reading skills in the relevant areas identified through the assessment instrument.

Education Code 28.006(g), (g-1), (k).

Sec. 6. 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.

Sec. 7. END-OF-COURSE EXAM

A student enrolled in a college preparatory mathematics or English language arts course under Education Code 28.014 who satisfies the TSI college readiness benchmarks on an assessment instrument administered at the end of the course satisfies the requirements concerning and is exempt from the administration of the Algebra I or the English I and English II end-of-course ("EOC") assessment instruments, as applicable, as prescribed by Education Code 39.023(c), even if the student did not perform satisfactorily on a previous administration of the applicable EOC assessment instrument. A student who fails to perform satisfactorily on the assessment instrument may retake that assessment instrument or may take the appropriate EOC assessment instrument.

Education Code 39.025(a-1).

PG.-2.12 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.-2.13 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 a student 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.-2.14 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 ~~kindergarten~~ 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 students have a minimum of 30 hours of staff development that includes nature and needs of gifted/talented students, assessing student needs, and curriculum and instruction for gifted students;
2. Teachers without the required training who provide instruction and services that are part

of the gifted and talented program complete the 30-hour training requirement within one semester;

3. Teachers who provide instruction and services that are part of the program receive a minimum of six hours annually of professional development in gifted education; and
4. Administrators and counselors who have authority for program decisions have a minimum of six hours of professional development that includes nature and needs of gifted/talented students and program options.

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.

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.-2.15 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.-2.16 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 student is eligible to enroll in a course provided through the TxVSN only if the student:

1. On September 1 of the school year is younger than 21 years of age or younger than 26 years of age and entitled to the benefits of the Foundation School Program under Education Code 48.003;
2. Has not graduated from high school; and
3. Is otherwise eligible to enroll in a Texas public school.

A student is eligible to enroll full-time in courses provided through the TxVSN only if the student:

1. Was enrolled in a Texas public school in the preceding school year;
2. Is a dependent of a member of the United States military who has been deployed or transferred to the State of Texas and was enrolled in a publicly funded school outside of Texas in the preceding school year; or
3. 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.

a. Exception for Military Dependents

A student is eligible to enroll in one or more courses provided through the TxVSN or enroll full-time in courses provided through the TxVSN if the student:

1. Is a dependent of a member of the United States military;
2. Was previously enrolled in high school in Texas; and
3. No longer resides in the State of Texas due to a military deployment or transfer.

Education Code 30A.002; 19 TAC 70.1013.

b. 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)*.

c. 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).

d. 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 similar course.

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.-2.17 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.-2.18 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. ENGLISH LEARNER STUDENTS

In grades 9–12, English learner¹ 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

¹ In this policy, the term “English learner” is synonymous with “limited English proficient (LEP)” student, as that term is used in Subchapter B, Chapter 29, Education Code.

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.*

a. Assessment Schedule

The Commissioner shall specify the schedule for testing and field testing that is in compliance with Education Code 39.023(c-3) and supports reliable and valid assessments. 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.

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 topics addressed below:

a. Graduation Testing

The testing requirements for graduation and the dates, times, and locations of testing. 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.

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 English 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.

a. 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.

iii. 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.

b. 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)*.

c. 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)*.

d. 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 to take 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).

e. 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)*.

f. 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 each student who fails to perform satisfactorily on an EOC assessment instrument with accelerated instruction in the subject assessed by the assessment instrument. *Education Code 39.025(b-1).*

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.-2.19 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.-2.21 STATE ASSESSMENT OF ENGLISH LEARNERS

Sec. 1. LANGUAGE PROFICIENCY ASSESSMENT COMMITTEE (LPAC)

The language proficiency assessment committee (“LPAC”) shall select the appropriate assessment option for English learners¹, in accordance with 19 TAC 101.1005. LPAC assessment decisions must be made on an individual student basis in accordance with administrative procedures established by the Texas Education Agency (“TEA”).

The LPAC shall document in the student’s permanent record file:

1. The decisions and justifications related to English language proficiency assessments under 19 TAC 101.1003;
2. The decisions and justifications related to selecting the appropriate assessment option under 19 TAC 101.1005; and
3. In conjunction with the admission, review, and dismissal (“ARD”) committee, the need for allowable testing accommodations under 19 TAC 101.1003 and .1005.

19 TAC 101.1003(b), (c), .1005(a), (c).

Sec. 2. DEFINITIONS

“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).*

“Unschooled asylee or refugee” means a student who:

1. Initially enrolled in a school in the United States as:
 - a. An asylee as defined by 45 C.F.R. 400.41; or
 - b. A refugee as defined by 8 U.S.C. 1101;
2. Has a visa issued by the U.S. Department of State with a Form I-94 Arrival/Departure record, or a successor document, issued by the U.S. Citizenship and Immigration Services that is stamped with “Asylee,” “Refugee,” or “Asylum”; and
3. As a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum prescribed under Education Code 28.002, as determined by the LPAC established under Education Code 29.063.

Education Code 39.027(a-1); 19 TAC 101.1005(c).

¹ In this policy, the term “English learner” is synonymous with “limited English proficient (LEP)” student, as that term is used in Subchapter B, Chapter 29, Education Code.

“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. 3. ENGLISH LANGUAGE PROFICIENCY ASSESSMENTS

In 9 through grade 12, an English learner 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)*.

Sec. 4. 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. 5. END-OF-COURSE ASSESSMENTS

An English learner shall participate in the end-of-course assessments as required by Education Code 39.023(c) and, except as provided below, shall be administered the general form of the English-version state assessment. *19 TAC 101.1005(b)*.

An English learner 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, except as provided below.

a) Exception

If an English learner enrolled in English I or English for Speakers of Other Languages I has not yet demonstrated English language proficiency in reading as determined by the English language proficiency assessments required above and 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 school years or less, then he or she shall not be required to retake the applicable English I assessment in which the student is enrolled 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(a), (b).

Sec. 6. NON-ENGLISH LEARNER STUDENTS

Richard Milburn Academy may administer the assessment of academic skills in Spanish to a student who is not identified as an English learner 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(g)*.

Sec. 7. SPECIAL EDUCATION

For each English learner who receives special education services, the student's ARD committee in conjunction with the student's LPAC shall select the appropriate assessments.

a. Selecting Assessments

The ARD committee shall document the decisions and justifications in the student's individualized education program (IEP). *19 TAC 101.1005(a)*.

b. English Language Proficiency Tests

In rare cases, the ARD committee in conjunction with the LPAC may determine that it is not appropriate for an English learner who receives special education services to participate in an

English language proficiency assessment required above for reasons associated with the student's particular disability. The ARD committee shall document the decisions and justifications in the

student's IEP, and the LPAC shall document the decisions and justifications in the student's permanent record file. *19 TAC 101.1003(b)*.

In the case of an English learner 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 TEA. *19 TAC 101.1003(c)*.

c. Alternative Assessment Instruments

In certain cases, an English learner who receives special education services may, as a result of his or her particular disabling condition, qualify to be administered an alternative assessment instrument based on alternative achievement standards. *19 TAC 101.1005(b)*.

An unschooled asylee or refugee who meets these criteria 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. *19 TAC 101.1005(c)*.

d. Testing Accommodations

The LPAC in conjunction with the ARD committee shall determine and document any allowable testing accommodations for assessments in accordance with administrative procedures established by TEA. *19 TAC 101.1005(e)*.

Sec. 8. GRADE ADVANCEMENT REQUIREMENTS

The LPAC shall determine appropriate assessment and accelerated instruction for an English learner who is administered a grade advancement test in English or Spanish, except as provided by 19 TAC 101.1005. The grade placement committee for an English learner shall make its decisions in consultation with a member of the student's LPAC. *19 TAC 101.2003(e)*.

PG.-2.22 NONDISCRIMINATION POLICY

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/Texas, Inc. *42 U.S.C. 12132; 29 U.S.C. 794(a); 34 CFR 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. *Education 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 the 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 CFR 300.13, 300.17, 300.36.

Sec. 3. LEAST RESTRICTIVE ENVIRONMENT

Richard Milburn Academy shall ensure that, to the maximum extent possible, students with disabilities shall be educated with students 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 student’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 CFR 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, and 19 Administrative Code 89.1053. *19 TAC 89.1050(k).*

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: services provided in the regular classroom in accordance with the student's IEP;
2. Homebound: services provided at home or hospital bedside;
3. Hospital class: services provided in a classroom, hospital facility, or residential care and treatment facility not operated by Richard Milburn Academy;
4. Speech therapy: speech therapy services provided, whether in a regular education classroom or other setting;
5. Resource room/services: services provided in a setting other than the regular classroom for less than 50% of the regular school day;
6. Self-contained (mild, moderate, or severe) regular campus: services provided to a student who is in a self-contained program for 50% or more of the regular school day on a regular school campus;
7. Off home campus: services provided in an inter-district program, through Richard Milburn Academy personnel in a non-Richard Milburn Academy facility, or at a Richard Milburn Academy campus that provides only special education and related services.
8. Nonpublic day school: services provided through a contractual agreement with a nonpublic school;
9. Vocational adjustment class/program: services provided to a student who is placed on a job with regularly scheduled direct involvement by special education personnel in the implementation of the student's IEP;
10. Residential care and treatment facility (not Richard Milburn Academy resident): services provided to students who reside in care and treatment facilities and whose parents do not reside within the boundaries of Richard Milburn Academy;
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 89.63(c), (f).

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 students.

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 student with a disability to receive a FAPE as described in the student'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 CFR 300.34.

a. Transportation

Richard Milburn Academy shall provide special transportation with federal funds only when the admission, review and dismissal (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 TAC 89.1096(e).*

b. Extended School-Year Services

Richard Milburn Academy shall ensure that extended school-year (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 CFR 300.106; 19 TAC 89.1065.*

PG.-2.23 IDENTIFICATION, EVALUATION, AND ELIGIBILITY OF SPECIAL EDUCATION STUDENTS

Sec. 1. CHILD FIND

Richard Milburn Academy shall ensure that all students residing within the Richard Milburn Academy 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 students with disabilities, including:

1. Homeless students;
2. Children who are wards of the state;
3. Students attending private schools;
4. Highly mobile students (including migrant students); and
5. Students 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 CFR 300.111(a)(1)(i), (c).

a. Private School Students

Richard Milburn Academy shall coordinate with home school districts, who are primarily responsible for consulting with private school representatives regarding the student find process and the provision of special education and related services to students enrolled in private schools within the Richard Milburn Academy boundaries.

Richard Milburn Academy shall undertake activities similar to those undertaken for public school students and shall complete the child find process for children enrolled in private schools in a time period comparable to that for other students attending the public schools within the Richard Milburn Academy boundaries. *20 U.S.C. 1412(a)(10)(A)(ii)–(iv).*

Sec. 2. REFERRAL

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).*

Referral of students for a full and individual initial evaluation for possible special education services shall be a part of Richard Milburn Academy's overall general education referral or

screening system. Either a parent, the Texas Education Agency ("TEA"), another state agency, or Richard Milburn Academy may initiate a request for an initial evaluation.

a. Obligation to Refer

Before referral, students experiencing difficulty in the general classroom should be considered for all support services available to all students. If a student continues to experience difficulty in the

general classroom after the provision of interventions, Richard Milburn Academy personnel must refer the student for a full and individual initial evaluation. 20 U.S.C. § 1414(a)(1); 34 C.F.R. § 300.301; 19 TEX. ADMIN. CODE § 89.1011

b. Parent or Adult Student Request

If a parent or adult student submits a written request for a full individual and initial evaluation of a student, Richard Milburn Academy shall, not later than the 15th school day after the date Richard Milburn Academy receives the request:

1. Provide the parent or adult student with prior written notice of its proposal to conduct an evaluation consistent with 34 C.F.R. § 300.503, a copy of the procedural safeguards notice required by 34 CFR 300.504, and an opportunity to give written consent for the evaluation; or
2. Provide the parent or adult student with prior written notice of its refusal to conduct an evaluation consistent with 34 C.F.R. § 300.503, and a copy of the procedural safeguards notice required by 34 C.F.R. § 300.504.

20 U.S.C. 1414(a)(1); 34 C.F.R. 300.301; 19 TAC 89.1011(a), (b); Education Code 29.004(c).

Sec. 3. 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 CFR 300.503(a).*

Sec. 4. INITIAL EVALUATION

Richard Milburn Academy shall conduct a full and individual initial evaluation before the initial provision of special education and related services to a student with a disability. *20 U.S.C. 1414(a)(1)(A).*

a. Consent for Initial Evaluation

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 CFR 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 in accordance with State law; or
3. The rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law 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 CFR 300.300(a)(2).

c. Completion of Written Report

Richard Milburn Academy must complete the written report of a full individual and initial evaluation:

1. Not later than the 45th school day following the date on which Richard Milburn Academy in accordance with 20 USC 1414(a) receives written consent for the evaluation signed by the student's parent, adult student or legal guardian. If a student has been absent from school during that period on three or more school days, the period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent; or

If Richard Milburn Academy receives written consent for the evaluation from the 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 written report of a full individual and initial evaluation of a student must be provided to the student's parent or adult student not later than June 30 of that year.

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 Richard Milburn Academy 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 report must be completed not later than the 45th school day following the date Richard Milburn Academy received written consent, except that the period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent.

A student is considered absent for the school day if the student is not in attendance at the official Richard Milburn Academy attendance taking time or at the alternate attendance taking time set for that student. A student is considered in attendance if the student is off campus participating in an activity that is approved by the Board and is under the direction of a professional staff member of Richard Milburn Academy or an adjunct staff member who has a minimum of a bachelor's degree and is eligible for participation in the Teacher Retirement System of Texas.

“School day” does not include a day that falls after the last instructional day of the spring school

term and before the first instructional day of the subsequent fall school term.

These time frames shall not apply if the parent or adult student repeatedly fails or refuses to produce the student for the evaluation.

d. Transfer Students

Richard Milburn Academy shall ensure that evaluations of students who transfer from one public school 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.

If a student was in the process of being evaluated for special education eligibility by another public school and enrolls in Richard Milburn Academy before the previous school completed the full individual and initial evaluation, Richard Milburn Academy must coordinate with the previous school as necessary and as expeditiously as possible to ensure a prompt completion of the evaluation in accordance with 34 C.F.R. 300.301(d)(2) and (e) and 300.304(c)(5).

The time lines above do not apply in such a situation if:

1. The new school is making sufficient progress to ensure a prompt completion of the evaluation; and

The parent and the new school agree to a specific time when the evaluation will be completed.

20 U.S.C. 1414(a)(1)(C), (b)(3)(D); 34 C.F.R. 300.301(c)–(e); Education Code 29.004; 19 TAC 89.1011.

Sec. 5. PSYCHOLOGICAL EXAMS

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 Education 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 60 calendar days for completion of an evaluation. *Education Code 29.0041.*

Sec. 6. ELIGIBILITY AND REEVALUATIONS

A student is eligible to participate in Richard Milburn Academy's special education program if:

1. The student is between the ages of 13 and 21, inclusive;
2. The student has one or more of the disabilities listed in federal regulations, state law, or both; and
3. 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 the public schools without the provision of special services.

20 U.S.C. 1401(3); Education Code 29.003(b); 19 TAC 89.1035, .1040.

a. Determination of Initial Eligibility

Upon completion of the administration of assessments and other evaluation measures, a team of qualified professionals and the parent or adult student shall make the determination of whether the student has a disability and of the educational needs of the student.

Richard Milburn Academy shall provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent or adult student. *20 U.S.C. 1414(b)(4)(B); 34 CFR 300.306(a).*

The admission, review, and dismissal (“ARD”) committee must make its decisions regarding a student's initial eligibility determination and, if appropriate, individualized education program (“IEP”) and placement within 30 calendar days from the date of the completion of the written full individual and initial evaluation report. If the 30th day falls during the summer and school is not in session, the student's ARD committee has until the first day of classes in the fall to finalize decisions concerning the student's initial eligibility determination, IEP, and placement, unless the full individual and initial evaluation indicates that the student will need extended school year (ESY) services during that summer.

When a report is provided to a parent or adult student not later than June 30 as described at Timeframe for Completion of Written Report, above, the ARD committee must meet not later than the 15th school day of the following school year to consider the evaluation. If, however, an evaluation indicates that a student will need ESY services, the ARD committee must meet as expeditiously as possible. *19 TAC 89.1011(d), (e).*

b. Consent: Initial Provision of Services

Richard Milburn Academy must obtain informed consent from the parent or adult student for the initial provision of special education and related services. If the parent or adult student of a student fails to respond to a request for, or refuses to consent to, the initial provision of services, Richard Milburn Academy:

1. May not use the procedures in 34 C.F.R. part 300 subpart E (including the mediation and due process procedures) in order to obtain agreement or a ruling that the services may be provided to the student;
2. Will not be considered to be in violation of the requirement to make FAPE available to the student for the failure to provide the services for which Richard Milburn Academy requests consent; and
3. Is not required to convene an ARD meeting or develop an IEP for the student for the services.

c. Consent: Revoking Consent

If, at any time after the provision of initial services, the parent of a child or adult student revokes consent in writing for the continued provision of services, Richard Milburn Academy:

1. May not continue to provide services to the child or adult student, but must provide prior written notice in accordance with 34 CFR 300.503 before ceasing services;
2. May not use the procedures in 34 CFR part 300 subpart E in order to obtain agreement or a ruling that the services may be provided to the child or adult student;
3. Will not be considered to be in violation of the requirement to make FAPE available to the child or adult student because of the failure to provide the child with further services; and
4. Is not required to convene an IEP Team meeting or develop an IEP for further provision of services.

34 CFR 300.300(b).

d. Reevaluations

Richard Milburn Academy shall ensure that each child or adult student with a disability is reevaluated if Richard Milburn Academy determines that the educational or related service needs of the child or adult student, including improved academic achievement and functional performance, warrant a reevaluation, or if the child's parent or adult student or teacher requests a reevaluation.

Reevaluation shall occur:

1. No more than once a year, unless the parent and Richard Milburn Academy agree otherwise; and
2. At least once every three years, unless the parent or adult student and Richard Milburn Academy agree that a reevaluation is unnecessary.

Richard Milburn Academy shall obtain informed parental or adult student consent before conducting a reevaluation, except that informed parental consent is not needed if Richard Milburn Academy can demonstrate that it has taken reasonable measures to obtain consent and the child's parent or adult student has failed to respond. *20 U.S.C. 1414(a)(2), (c)(3); 34 CFR 300.303.*

e. Evaluation for Change in Eligibility

Richard Milburn Academy shall evaluate a child or adult student before determining that the child or adult student is no longer a child or adult student with a disability. However, an evaluation is not required before the termination of eligibility due to graduation from secondary school with a regular diploma or due to exceeding the age eligibility for FAPE under state law; a summary of academic achievement and functional performance must be provided in these circumstances. *20 U.S.C. 1414(c)(5); 34 CFR 300.305(e); 19 TAC 89.1070(g).*

f. Independent Evaluation

Parents or adult student have a right to obtain an independent educational evaluation of the student. Upon such a request, Richard Milburn Academy shall provide the parents or adult student with information regarding where one can be obtained and Richard Milburn Academy's criteria for independent evaluations.

i. At Public Expense

If a parent or adult student requests an independent evaluation at public expense, Richard Milburn Academy shall, without unnecessary delay, either:

1. File a due process complaint to request a hearing to show that its evaluation is appropriate; or
Ensure that an independent evaluation is provided at public expense, unless Richard Milburn Academy demonstrates in a hearing pursuant to 34 CFR 300.507 through 300.513 that the evaluation obtained by the parent or adult student did not meet Richard Milburn Academy's criteria for independent evaluations.

ii. At Private Expense

If Richard Milburn Academy initiates a hearing, and the final decision is that Richard Milburn Academy's evaluation is appropriate, the parent or adult student still has a right to an independent evaluation, but not at public expense. If the parent or adult student obtains an independent evaluation at private expense, Richard Milburn Academy shall consider the results of the evaluation, if it meets Richard Milburn Academy's criteria, in any decision made with respect to providing FAPE to the student. *34 CFR 300.502.*

Sec. 7. REQUIRING PRESCRIPTION MEDICATION

Richard Milburn Academy employees are prohibited from requiring a student 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.

Richard Milburn Academy employees are not prohibited from consulting or sharing classroom-based observations with parents or adult student regarding the 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).*

PG.-2.24 SPECIAL EDUCATION PROCEDURAL REQUIREMENTS

Sec. 1. PROCEDURAL SAFEGUARDS

The Superintendent or designee shall establish and maintain procedures to ensure that students with disabilities and their parents or adult students 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 or adult student to review all education records and to participate in meetings relating to the identification, evaluation, and educational placement of the student and the provision of FAPE to the student. *34 CFR 300.501*.
2. An opportunity for the parents or adult student to obtain an independent educational evaluation of the student. *34 CFR 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 CFR 300.519*.
4. Prior written notice to the parents or adult student whenever Richard Milburn Academy proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the student, or the provision of FAPE to the student. *34 CFR 300.503*.
5. Procedures to allow parties to resolve disputes through a mediation process. *34 CFR 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 student. *34 CFR 300.507*.
7. Procedures that require either party, or the attorney representing a party, to provide the other party a due process complaint (which shall remain confidential). *34 CFR 300.508*.

Sec. 2. 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 student’s receipt of services after the student is initially provided special education and related services, Richard Milburn Academy is

not required to amend the student's education records to remove any references to the student's receipt of services because of the revocation of consent.

34 CFR 300.9.

Sec. 3. 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 or adult student, unless it is clearly not feasible to do so. *34 CFR 300.503(c), 300.504(d).*

a. Electronic Delivery of Notices

A parent or adult student who has a student with a disability may elect to receive required notices required by 34 CFR 300.503, 300.504 and 300.508 by electronic mail, if Richard Milburn Academy makes that option available. *34 CFR 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 Web site.

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 or adult student 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 student's placement during pendency of any due process proceedings;
8. Procedures for students who are subject to placement in an interim alternative educational setting;
9. Requirements for unilateral placement by parents of children or adult student 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 CFR 300.504(c).

Sec. 4. PRIOR NOTICE AND CONSENT

Richard Milburn Academy shall provide prior written notice to the parents or adult student 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 student or the provision of a FAPE to the student. *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 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 to contact to obtain assistance in understanding the Individuals with 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 CFR 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. *20 U.S.C. 1414(a)(1)(D), (E); 34 CFR 300.304(a)*.

c. Consent to Services

Richard Milburn Academy shall seek informed consent from the parent before providing special education and related services to a child. *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. 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. 6. DUE 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 Limit

A due process complaint 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).*

b. Exception

This timeline 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).

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. 7. 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.-2.25 REQUIRED ARD COMMITTEE AND IEPS

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 pursuant to 19 TAC 89.1011. The ARD committee shall be the individualized education program (“IEP”) team defined at 34 CFR 300.321.

Sec. 2. ARD COMMITTEE RESPONSIBILITIES

Richard Milburn Academy is responsible for all of the functions for which the IEP team is responsible under federal law and regulations and for which the ARD committee is responsible under state law, including the following:

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 Education Code 28.0211 and intensive programs of instruction under Education 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 Education Code 33.081.

19 TAC 89.1050(a); 34 CFR 300.116(a), 300.321(a).

Sec. 3. COMMITTEE MEMBERS

Richard Milburn Academy shall ensure that each ARD committee meeting includes:

1. The parents of a child with a disability;
2. At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment) who must, to the extent practicable, be a teacher who is responsible for implementing a portion of the student’s IEP;
3. At least one special education teacher, or where appropriate, at least one special education provider of the child;
4. A representative of Richard Milburn Academy who:
 - a. Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

- b. Is knowledgeable about the general education curriculum; and
- c. Is knowledgeable about the availability of Richard Milburn Academy's resources;
- 5. An individual who can interpret the instructional implications of evaluation results, who may be a member of team described in Section 3(2)-(6);
- 6. At the discretion of the parent or Richard Milburn Academy, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate;
- 7. The child, whenever appropriate;
- 8. To the extent appropriate, with the consent of the parent(s) 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. For a child with limited English proficiency, a member of the child's language- proficiency assessment committee ("LPAC");
- 11. For a child with an auditory impairment, including deaf-blindness, a teacher who is certified in the education of children with auditory impairments; and
- 12. For a child with a visual impairment, including deaf-blindness, a teacher who is certified in the education of children with visual impairments.

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 CFR 300.321(e).

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 CFR 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.

If the purpose of the meeting is to consider transition services, the notice must also indicate this purpose, indicate that Richard Milburn Academy will invite the student, and identify any other agency that will be invited to send a representative.

34 CFR 300.322(a)–(b).

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 and video calls.

20 U.S.C. 1414(f); 34 CFR 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, such as:

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 CFR 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. A regular education teacher of the child, as a member of the ARD committee, must participate in the review and revision of the IEP of the child.

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 CFR 300.116(b)(1), 300.324(b), (c)(1); 300.501(b)(3).

a. Meeting at Parent Request

A parent may request an ARD committee meeting at any mutually agreeable time to address specific concerns about his or her child's special education services. Richard Milburn Academy must respond to the request by holding the meeting or within five school days, providing the parent with written notice explaining why Richard Milburn Academy refuses to convene a meeting.

19 TAC 89.1050(e).

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 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 CFR 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 previous school in which the child was enrolled.

20 U.S.C. 1414(d)(2)(C)(ii); 34 CFR 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.

Education Code 162.002 art. V, § C.

Sec. 7. INDIVIDUALIZED EDUCATION PROGRAM (IEP)

Richard Milburn Academy shall develop, review, and revise an IEP for each child with a disability. *20 U.S.C. 1412(a)(4); 34 CFR 300.320(a).*

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. 1414(d)(2)(A); 34 CFR 300.323(a).*

The term “individualized education program” 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 CFR 300.320; 19 TAC 89.1055.

Sec. 8. 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.

Education Code 29.005(d).

Sec. 9. 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 TAC 89.1055(e)–(f).*

Sec. 10. VISUAL IMPAIRMENT

Richard Milburn Academy shall adopt written procedures as required in Education Code 30.002(c)(10) for providing special education services to students with visual impairments. *19 TAC 89.1075(b).*

Sec. 11. 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. *19 TAC 89.1050(g)*.

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 committee recess and reconvene the ARD committee meeting. The period of time for reconvening the ARD committee meeting shall not exceed ten school days, unless the parties mutually agree otherwise. 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 committee members shall consider alternatives, gather additional data, prepare further documentation, and/or obtain additional resource persons to enable the 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).

b. No Agreement Reached

If, after the ten-day recess, the ARD committee still cannot reach agreement, Richard Milburn Academy shall implement the IEP it has determined to be appropriate for the student. A written statement of the basis for the disagreement shall be included in the IEP. The members who disagree shall be offered the opportunity to write their own statements. *19 TAC 89.1050 (g)*.

When Richard Milburn Academy implements an IEP with which the parents or adult student disagree, it shall provide prior written notice in compliance with applicable regulations and Richard Milburn Academy policy.

Parents shall have the right to file a complaint, request mediation, or request a due process hearing at any point, when they disagree with ARD committee decisions. *19 TAC 89.1050(h)*.

Sec. 12. IEP MODIFICATION

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.

After the annual IEP meeting for a school year, the parent and Richard Milburn Academy may agree not to convene an IEP meeting for the purposes of making changes to the IEP and instead may develop a written document to amend or modify the child's current IEP.

Upon request, a parent shall be provided with a revised copy of the IEP with amendments incorporated.

To the extent possible, Richard Milburn Academy shall encourage the consolidation of reevaluation meetings for the child and other ARD meetings for the child. *20 U.S.C. 1414(d)(3)(D)–(F); 34 CFR 300.324(a)(4)–(a)(6).*

PG.-2.26 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

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.

In accordance with 34 C.F.R. 300.320(b), 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(h), (j).

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(a), (k).

PG.-2.27 DYSLEXIA AND RELATED DISORDERS

Sec. 1. DYSLEXIA AND RELATED DISORDERS

The Board shall ensure that procedures are implemented for identifying and providing appropriate, evidence-based instructional services to students for dyslexia and related disorders. These procedures shall be implemented in accordance with the State Board of Education's *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders (Dyslexia Handbook 2018 Update)*. 19 TAC 74.28. Richard Milburn Academy shall provide a copy or a link to the electronic version of the *Dyslexia Handbook* to parents of children or adult student suspected to have dyslexia or a related disorder.

Sec. 2. IDENTIFICATION AND TESTING

Students enrolling in Richard Milburn Academy shall be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the State Board of Education.

Richard Milburn Academy must make available a process for early identification, intervention, and support for students at risk for dyslexia and related disorders in accordance with 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 student suspected of having a specific learning disability, including dyslexia or a related disorder.

Screening and further evaluation should only be done by individuals or professionals who are trained to assess students for dyslexia and related disorders.

19 TAC 74.28(d), (j).

a. Parent or Adult Student Notification

At least five school days before any identification or evaluation procedure is used with an individual service, Richard Milburn Academy must provide written notification of the proposed identification or evaluation to the adult student or student's parent. The notice must be in English, or to the extent practicable, the individual's native language. The notice must include:

1. A reasonable description of the evaluation procedure to be used with the individual student;
2. Information related to any instructional intervention or strategy used to assist the student prior to evaluation;
3. An estimated timeframe within which the evaluation will be completed; and
4. Specific contact information for the campus point of contact, relevant parent or adult student training and information projects, and any other appropriate parent or adult student resources.

b. IDEA Notice

Before a full individual and initial evaluation is conducted to determine whether a student has a disability under the Individuals with Disabilities Education Act (“IDEA”), Richard Milburn Academy must notify the adult student or student’s parent of its proposal to conduct an evaluation consistent with 34 CFR 300.503, provide all the information required in the above notice, and provide an opportunity for written consent for the evaluation. Richard Milburn Academy must also provide a copy of the IDEA procedural safeguards notice required under 34 CFR 300.504 and a copy of Section 504 information required under Education Code 26.0081.

c. Options and Services

Parents of a student or an adult student with dyslexia or a related disorder must be informed of all services and options available to the student, including general education interventions under response to intervention and multi-tiered systems of support models as required by Education Code 26.0081(d).

19 TAC 74.28(f)-(h).

Sec. 3. TREATMENT

Richard Milburn Academy shall provide each identified student access at his or her campus to instructional programs and to the services of a teacher trained in dyslexia and related services. Richard Milburn Academy may, with the approval of each adult student or student’s parents or guardians, offer additional services at a centralized location, so long as such centralized services do not preclude each student from receiving services at his or her campus. *19 TAC 74.28(i).*

a. Reading Program

Richard Milburn Academy shall purchase a reading program or develop its own reading program for students with dyslexia and related disorders that is aligned with the descriptors found in the *Dyslexia Handbook*.

Teachers who screen and treat these students must be trained in instructional strategies that utilize individualized, intensive, multi-sensory, phonetic methods and a variety of writing and spelling components described in the *Dyslexia Handbook*. The professional development activities specified by each school and/or campus planning committee shall include these instructional strategies.

19 TAC 74.28(e).

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.

Sec. 4. PARENT EDUCATION PROGRAM

Richard Milburn Academy shall provide a parent education program for parents of students or adult students with dyslexia and related disorders. This program must include:

1. Awareness of characteristics of dyslexia and related disorders;
2. Information on testing and diagnosis of dyslexia;
3. Information on effective strategies for teaching dyslexic students;
4. Information on qualifications of those delivering services to students with dyslexia and related disorders;
5. Awareness of information on modification, especially modifications allowed on standardized testing;
6. Information on eligibility, evaluation requests, and services available under IDEA and Section 504; and
7. Contact information for the relevant regional and/or district specialists.

Education Code 38.003; 19 TAC 74.28(l).

PG.-2.28 BILINGUAL EDUCATION AND ESL

Sec. 1. REQUIREMENTS UNDER TITLE III OF ESEA

Richard Milburn Academy shall comply with the statutory requirements regarding English learners¹ 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

It is the policy of the state that every student who has a primary language other than English and who is identified as an English learner shall be provided a full opportunity to participate in a bilingual education or English as a second language (ESL) program.

Sec. 3. RICHARD MILBURN ACADEMY/TEXAS, INC. RESPONSIBILITIES

Richard Milburn Academy shall:

1. Identify English learners 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 English learners 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 English learners and the schools that serve them.

19 TAC 89.1201(a).

Sec. 4. IDENTIFYING ENGLISH LEARNER 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 English learner 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 English learner students.

¹ In this policy, the term “English learner” is synonymous with “limited English proficient (LEP)” student, as that term is used in Subchapter B, Chapter 29, Education Code.

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 English learner 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 have the duties set forth at Education Code 29.063(c) and 19 TAC 89.1220(g)–(j), (l).

c. Home Language Survey

Within four weeks of each student’s enrollment, Richard Milburn Academy shall conduct a home language survey to determine the language normally used in the home and the language normally used by the student, whenever possible. The home language survey shall be conducted in English and in the home language, and signed by the student’s parents if the student is in prekindergarten through grade 8, or by the student if the student is in grades 9 through 12. The original copy of the survey shall be kept in the student’s permanent record.

Richard Milburn Academy shall conduct only one home language survey of each student.

The home language survey shall be administered in English, Spanish, and Vietnamese; for students of other language groups, the home language survey shall be translated into the primary language whenever possible. The home language survey shall contain the following questions:

1. “What language is spoken in the child’s home most of the time?”
2. “What language does the child speak most of the time?”

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 Texas Administrative Code § 89.1226.

19 TAC 89.1215.

d. Classification as an English Learner

The LPAC may classify a student as an English learner 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 English learner, 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.

Placement of a student in the bilingual education or ESL program must be approved in writing by the student's parent.

Education Code 29.056(a); 19 TAC 89.1040(a).

Pending parent approval, Richard Milburn Academy shall place the student in the recommended program, but may count only English learner students with parental approval for bilingual education allotment. *Education Code 29.056(a), (d); 19 TAC 89.1220(j).*

Richard Milburn Academy may identify, exit, or place a student in 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(j), (m), .1240(a).

f. Participation of Non-English Learner Students

With the approval of Richard Milburn Academy and a student's parent, a student who is not an English learner may participate in a bilingual education program. The number of participating students who are not English learners may not exceed 40% of the number of students enrolled in the program.

Education Code 29.058; 19 TAC 89.1233(c).

g. Students with Disabilities

Richard Milburn Academy shall implement assessment procedures that differentiate between language proficiency and disabling conditions in accordance with 19 Administrative Code Chapter 89, Subchapter AA, and shall establish placement procedures that ensure that placement in a bilingual education or ESL program is not refused solely because a student has a disability.

LPAC members shall meet in conjunction with admission, review, and dismissal committee members to review and provide recommendations with regard to the educational needs of each English learner who qualifies for services in the special education program.

19 TAC 89.1230.

Sec. 6. BILINGUAL AND ESL PROGRAMS

Upon the enrollment of 20 or more English learner students in any language classification in the same grade, Richard Milburn Academy shall offer a bilingual education or special language program as follows:

1. Instruction in English as a second language in grades 9–12.

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.

English learners shall participate fully with English-speaking students in regular classes provided in subjects such as art, music, and physical education. 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, .057(b); 19 TAC 89.1210(f).

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 special language programs shall be located in each regular Richard Milburn Academy campus rather than in separate facilities. Richard Milburn Academy may concentrate the programs at a limited number of schools. Recent immigrant English learners shall not remain enrolled in newcomer centers for longer than two years.

Education Code 29.057; 19 TAC 89.1235.

Sec. 7. 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 English learner 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. 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; 19 TAC 89.1207.*

Sec. 9. ENGLISH LEARNERS AND STATE ASSESSMENTS

In 9 through grade 12, an English learner student shall participate in state assessments in accordance with Commissioner's rules at 19 TAC Chapter 101, subchapter AA.

Sec. 10. PROGRAM EXIT

Richard Milburn Academy may transfer an English learner 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 or adult student 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 meeting exit requirements may continue in the bilingual or English as a second language program with parental approval but are not eligible for inclusion in Richard Milburn Academy's bilingual education allotment. *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 offer bilingual education or special language programs, Richard Milburn Academy shall include the following information in its PEIMS report as required by Education Code 29.006(a):

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 English learners who do not receive specialized instruction.

Sec. 12. PROGRAM EVALUATION

If Richard Milburn Academy is required to conduct 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.

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 English learners.

19 TAC 89.1265.

PG.-2.29 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, with other 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 on 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).



TCSA Model Board Policy Series

Module 3 – Students

Richard Milburn Academy

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PG-3.1 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 and 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: James Kirksey, Director of Special Populations, 13003 Jones Maltsberger, San Antonio, TX 78247, (830)557-6181 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: James Kirksey, Director of Special Populations 13003 Jones Maltsberger San Antonio, TX 78247, 830-557-6181 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 Specialist, 13003 Jones Maltsberger Road, San Antonio, TX 78247, (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).

a) 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).*

b) 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).*

c) 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).*

d) 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.

e) 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).

f) 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.*

g) 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.*

h) 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.*

i) 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 that may 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.

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.

i. 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.

ii. 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 or leash 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-3.2 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.

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 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.

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.

v. *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: James Kirksey, 13003 Jones Maltsberger Road, San Antonio, TX 78247, (830) 557-6181, and TitleIXCoordinator@rma-tx.org.

vi. *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: James Kirksey, Director of Special Populations, 13003 Jones Maltsberger Road, San Antonio, TX 78247, (830)557-6181 and ADA/Section504Coordinator@rma-tx.org.

vii. *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 Specialist, 13003 Jones Maltsberger Road, San Antonio, TX 78247, (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.

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 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.

x. 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).

xi. 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).

xii. 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).

xiii. 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).

xiv. 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).

xv. 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).

xvi. 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).*

xvii. 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 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 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).

xviii. 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).*

xix. 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).*

xx. 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 resolution process, 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 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 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-3.3 PROHIBITED BULLYING

Sec. 1. BULLYING PROHIBITED

Richard Milburn Academy prohibits bullying, including cyberbullying, as defined by the Texas Education Code. Retaliation against anyone involved in the complaint process is also prohibited.

“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 satisfies the 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.

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. 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. 4. 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.

Any Richard Milburn Academy employee who suspects or receives notice that a student or group of students has or may have experienced bullying and/or cyberbullying shall immediately notify the Principal or Principal's designee.

A report may be made orally or in writing. The Principal or Principal's designee shall reduce 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.

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. 5. INVESTIGATION OF REPORT

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.

a) 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.

b) Appeal

A parent or student who is dissatisfied with the outcome of the investigation may appeal under Board Policy PG-3.30 (Parent and Student Complaints and Grievances).

Sec. 6. 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. 7. 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. 8. 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.

PG-3.4 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)*.

Sec. 2. GENERAL ELIGIBILITY FOR ADMISSION

Richard Milburn Academy shall generally admit all persons who reside within Richard Milburn Academy's geographic boundaries and for whom Richard Milburn Academy operates a grade level sought and who, as of September 1 of any school year, are at least five years of age and 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 Richard Milburn Academy's geographic boundaries.
2. The applicant does not reside in Richard Milburn Academy's geographic boundaries, but one of the parents resides within Richard Milburn Academy's geographic boundaries 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 Richard Milburn Academy's geographic boundaries.
4. The applicant is under the age of 18 and has established a separate residence in Richard Milburn Academy's geographic boundaries 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 in Richard Milburn Academy's geographic boundaries 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 Richard Milburn Academy's boundaries.
8. The applicant resides in Richard Milburn Academy's boundaries and is 18 or older or the applicant's

disabilities of minority have been removed.

9. The applicant does not reside in Richard Milburn Academy's boundaries, but a grandparent resides in Richard Milburn Academy's boundaries 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 in Richard Milburn Academy's geographic boundaries.

Education Code 25.001.

Sec. 3. APPLICATION REQUIREMENT

Richard Milburn Academy requires applicants to submit a complete application form in order to be considered for admission. The Superintendent or designee shall set a beginning and closing date for the application window for each school year.

In order to be eligible for admission, the applicant or qualifying occupant specified by Education Code 25.001(b) must generally reside in the geographic boundaries set by the Richard Milburn Academy/ Texas, Inc. charter, and satisfy any other admissions criteria specified in this policy. See Sec. 10 below.

Sec. 4. 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 list are selected randomly. Results of the lottery shall be certified by a notary public.

Sec. 5. DEVELOPMENT OF WAITING LIST

The lottery will be paused momentarily after all available seats are filled. The drawing will then continue, and the randomly-selected numbers will be used to create a waiting list. As space becomes available, applicants will be called from the waiting list beginning with applicants with the lowest number assignment. Applicants selected by lottery will be "deemed admitted" and may proceed from provisional admission (Texas Education Code Section 25.002) to enrollment.

Sec. 6. ADMISSION PROCESS OF RETURNING STUDENTS

Returning students (students who currently attend Richard Milburn Academy and intend to return the next school year) 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.

Sec. 7. SIBLINGS POLICY AND CHILDREN OF THE SCHOOL'S FOUNDERS AND EMPLOYEES

Siblings of returning students currently enrolled at a Richard Milburn Academy campus and who timely notify Richard Milburn Academy of their intent to return for the next school year 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.

Sec. 8. 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.

Sec. 9. STUDENTS WITH DOCUMENTED HISTORIES OF A CRIMINAL OFFENSE AND/OR MISCONDUCT

As authorized by Education Code § 12.111(a)(5)(A), 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.

Sec. 10. DOCUMENTS AND INFORMATION APPLICANTS ARE REQUIRED TO PROVIDE

Applicants must complete and submit the common admission application form developed and made available by the Texas Education Agency ("TEA") under Education Code 12.1173.

Applicants are not required to provide transcripts or other academic records until after they are offered admission.

Sec. 11. 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 authorized geographic boundaries of Richard Milburn

Academy, as described in the Richard Milburn Academy charter. A person who is homeless, as defined by 42 U.S.C. 11302, need not reside within the geographic boundaries of 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:

- Notarized statement must state that the parent or legal guardian and child are living with the relative/friend;
- Notarized statement must state the name of the relative or friend who is on the relative or friend's proof of residence;
- 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 10th 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)*.

Subsequently, within 60 days, at least two current documents, Richard Milburn Academy must be provided confirmation of residency from one or more of the following sources:

- Credit card companies;
- U. S. Treasury;
- Social Security Administration, including benefits letter;
- Texas State government agencies (including city and county agencies);
- Utility companies;
- Financial institutions including checking, savings, or investment account statements;
- Insurance companies; or
- State and Federal Revenue departments.

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. 12. 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)*.

Sec. 13. 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. However, a student under 18 and not living with parents or guardian, who has engaged in conduct in the preceding year that has resulted in a disciplinary removal, alternative placement or expulsion, or who has engaged in delinquent conduct or conduct in need of supervision and is on probation or other conditional release for that conduct, or has been convicted of a criminal offense and is on probation or other conditional release, shall not be admitted to Richard Milburn Academy. The Superintendent or designee shall follow “Students with Documented Histories of a Criminal Offense and/or Misconduct,” above, in making such determination.

Sec. 14. 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 the 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, v 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. 13-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. 13-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, including transportation, 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. 15. ADMISSION OF MILITARY DEPENDENTS

a) Applicability

The provisions of Sec. 14 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. 14 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 other federal 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 shall 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) **Tuition**

Richard Milburn Academy is prohibited from charging tuition to:

1. 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; or
2. A student who is domiciled in another state and resides in military housing that is located within Richard Milburn Academy's boundaries.

Education Code 25.004, 162.002 art. VI, § A.

f) **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.*

g) **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.*

h) **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.*

i) 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. 16. 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. 17. 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).

PG-3.5 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:

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.

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.

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 the paperwork and up to one day of excused travel for traveling from that site.

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.

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.

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 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.

Health Care Appointments

Temporary absence resulting from an appointment with a health-care professional 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.

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.

Higher Education Visits

Richard Milburn Academy may excuse a student 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.

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.

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.

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).*

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; or
4. 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-3.6 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 by the 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).*

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-3.7 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's conduct:
 - 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-3.8 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-3.5 (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-3.30 (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-3.9 ALCOHOL AND DRUG USE

Sec. 1. ALCOHOL

To provide a safe and alcohol-free environment for students and employees, all alcoholic beverages are prohibited on Richard Milburn Academy property at all times, and at all school-sanctioned activities occurring on or off school property. Student violators are subject to possible prosecution, as allowed by law, as well as the disciplinary terms of the Student Code of Conduct.

The Board of Directors 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).

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. 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.

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-3.10 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-3.11 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) 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 61.1051(b)(5)*.

b) 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.*

c) 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)*.

d) 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)*.

e) 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; and
3. 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 61.1051(a)(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 61.1051(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, to the 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, 19TAC 61.1051, 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 61.1051(c)*.

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 61.1051(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 61.1051(e), (f).

PG-3.12 SEXUAL ABUSE, SEX TRAFFICKING, 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-3.13 IMMUNIZATION REQUIREMENT

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 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-3.14 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 the income;
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.

a) Purchasing Medication

Richard Milburn Academy shall not purchase nonprescription medication to administer to a student.

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-3.15 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

Nonprescription medication may be administered by authorized Richard Milburn Academy personnel upon a parent's written request, when properly labeled and in the original container; or if required by the individualized education program ("IEP") or Section 504 plan of a student with disabilities.

ii. Nonprescription Medication Administered by Richard Milburn Academy

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 and parent consent given on an emergency treatment form.

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.

PG-3.16 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.

Any student identified with live lice will be sent home after Richard Milburn Academy contacts the parent. The parent will be advised to treat the child for head lice. Educational materials about treatment and prevention may be given to the parent/guardian.

c) Parent Notice

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 (as described in item 2 above) may not identify the child with lice.

Education Code 38.031.

PG-3.17 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:

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.

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.

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 developed by the student's parent or guardian and the physician responsible for the student's seizure treatment. The 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).

b) Seizure Management and Treatment Plan Requirements

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.

Education Code 38.032(b).

c) 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-3.18 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) 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)*.

d) 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)*.

e) Exemption – Religions 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)*.

f) 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).*

g) 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)*.

a) 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)*.

b) 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).

c) *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).

d) *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).

e) *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).

f) *Records*

Richard Milburn Academy must comply with recordkeeping and reporting requirements set out in 25 TAC 37.145(b).

g) *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).

h) *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-3.19 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-3.20 WELLNESS POLICY

Sec. 1. 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. 2. 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. 3. 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. 4. 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 the program 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. 5. 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. 6. 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 wellness policy;
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 the local wellness plan.

Sec. 7. 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. 8. RECORDS RETENTION

Richard Milburn Academy shall retain all the required records associated with the wellness policy as required by law¹ and Richard Milburn Academy's record management program.

42 U.S.C. 1758b, 7 C.F.R. Part 210.

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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.3.21 SCHOOL SAFETY TRANSFERS

a) 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.*

b) 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.

c) 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. *TEA ESSA Unsafe School Choice Option LEA Requirements (August 22, 2019)*.

PG-3.22 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-3.23 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 the record.
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 party only 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 survey is 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 any instructional material used in the educational curriculum for 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.
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 described above.
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 the child;
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 copy of 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-3.24 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-3.25 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-3.26 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-3.27 PERSONAL TELECOMMUNICATIONS / ELECTRONIC DEVICES

Sec. 1. PERSONAL USE

a) Telecommunications Devices

The Superintendent or designee shall develop guidelines regarding student possession of electronic devices, including personal telecommunications devices or paging devices, at school or school- related activities. Such guidelines shall be addressed in the Student Handbook.

Disciplinary consequences for violating Richard Milburn Academy's guidelines concerning student possession of electronic devices will be in accordance with the Student Code of Conduct.

b) Confiscation of Electronic Devices

An authorized Richard Milburn Academy employee may confiscate a personal telecommunications device, including a mobile telephone, used in violation of applicable campus rules.

A confiscated personal telecommunications device may be released for an administrative fee, not to exceed \$15, as determined by the Superintendent or designee.

If a personal telecommunications device is not retrieved, Richard Milburn Academy shall dispose of the device after providing notice required by law.

Richard Milburn Academy will not be responsible for damage to or loss or theft of confiscated items.

c) Other Electronic Devices

Guidelines regarding personal electronic devices shall be addressed in the Student Handbook.

d) No Responsibility for Devices

Richard Milburn Academy is not responsible for any damaged, lost, or stolen personal device.

Sec. 2. INSTRUCTIONAL USE

A student shall obtain prior approval before using personal telecommunications or other personal electronic devices for on-campus instructional purposes. The student shall also acknowledge receipt and understanding of applicable regulations and shall sign the appropriate user agreements.

PG-3.28 STUDENT RIGHTS AND RESPONSIBILITIES

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-3.29 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 may provide 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-3.30 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 100.1033(b)(14)(C)(i)*.

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.

PG-3.31 STUDENT FEES

Sec. 1. 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. 2. 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 or diplomas.
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. 3. 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. 4. 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. 5. 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. 6. 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-3.32 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-3.30 (Parent and Student Complaints and Grievances).

PG-3.33 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-3.30 (Parent and Student Complaints and Grievances).

PG-3.34 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.

a) 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.

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 oversight 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.

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 in which 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)”;
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-3.35 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-3.36 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, or property.
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-3.37 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. 1. 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.

Sec. 2. REMOVAL FOR TEN DAYS OR FEWER

A student with a disability who violates the 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).*

a) Services During Removal

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. 3. SUBSEQUENT REMOVALS OF TEN DAYS OR FEWER

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. *34 C.F.R. 300.530(b)(1).*

a) Services During Removal

After a student with a disability 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).*

b) 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 of the decision and of all procedural safeguards. *20 U.S.C. 1415(k)(1)(H).*

Sec. 4. 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.

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. 5. 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, and relevant members of the ARD committee (as determined by the parent and Richard Milburn Academy) 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, 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.

If Richard Milburn Academy, the parent, and relevant members of the ARD committee determine the conduct was the direct result of Richard Milburn Academy's failure to implement the IEP, Richard Milburn Academy shall take immediate steps to remedy those deficiencies.

20 U.S.C. 1415(k)(1)(E); 34 C.F.R. 300.530(e).

No 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. 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)–(2)

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 at "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).

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 ("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 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 TEA or Richard Milburn Academy.

20 U.S.C. 1415(k)(1)(G); 34 C.F.R. 300.530(g).

The ARD committee shall determine the interim alternative educational setting. *20 U.S.C. 1415(k)(2)*.

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. 6. 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. *20 U.S.C. 1415(k)(3)(A); 34 C.F.R. 300.532(a); 19 TAC 89.1151*.

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 Richard Milburn Academy agree otherwise. *20 U.S.C. 1415(k)(4); 34 C.F.R. 300.533*.

Sec. 7. 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. 8. 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 ("IDEA") 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) *Exception*

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 (as described above), 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).

Sec. 9. 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; 19 TAC 89.1053(j)*.

a) Exceptions

Education Code 37.0021 (Use of Confinement, Restraint, Seclusion, and Time-Out) does not apply to:

1. A peace officer, while performing law enforcement duties;
2. Juvenile probation, detention, or corrections personnel; or
3. 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.

“Law enforcement duties” means activities of a peace officer relating to the investigation and enforcement of state criminal laws and other duties authorized by the Code of Criminal Procedure.

Education Code 37.0021(b)(4), (g); 19 TAC 89.1053(l), (m).

Further, 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).

b) 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)*.

c) Seclusion

A Richard Milburn Academy employee or volunteer or an independent contractor of Richard Milburn Academy may not place a student in seclusion. *Education Code 37.0021(c)*.

“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).

d) *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).

“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.

“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)–(2).

ii. 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).

iii. Documentation

In a case in which restraint is used, Richard Milburn Academy employees, volunteers, or independent contractors shall implement the documentation requirements set forth at 19 TAC 89.1053(e).

e) *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 may only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student’s IEP and/or BIP if it is utilized on a recurrent basis to increase or decrease targeted behavior.
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(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.

19 TAC 89.1053(b)(3).

i. 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 TAC 89.1053(h).

ii. 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).*

PG-3.38 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.



Board Policy Series

Module 6 – Special Education

Richard Milburn Academy

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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, Texas Education Code Chapter 37, and 19 TEX. ADMIN. CODE § 89.1053. 19 TEX. ADMIN. CODE § 89.1050(g).

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: services provided in the regular classroom in accordance with the student's IEP;
2. Homebound: services provided at home or hospital bedside;
3. Hospital class: services provided in a classroom, hospital facility, or residential care and treatment facility not operated by Richard Milburn Academy;
4. Speech therapy: speech therapy services provided, whether in a regular education classroom or other setting;
5. Resource room/services: services provided in a setting other than the regular classroom for less than 50% of the regular school day;
6. Self-contained (mild, moderate, or severe) regular campus: services provided to a student who is in a self-contained program for 50% or more of the regular school day on a regular school campus;
7. Off home campus: services provided in an interdistrict program, through Richard Milburn Academy personnel in a non-Richard Milburn Academy facility, or at a Richard Milburn Academy campus that provides only special education and related services.
8. Nonpublic day school: services provided through a contractual agreement with a nonpublic school;
9. Vocational adjustment class/program: services provided to a student who is placed on a job with regularly scheduled direct involvement by special education personnel in the implementation of the student's IEP;
10. Residential care and treatment facility (not Richard Milburn Academy resident): services provided to students who reside in care and treatment facilities and whose parents do not reside within the boundaries of Richard Milburn Academy;
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 TEX. ADMIN. CODE § 89.63(c), (f).

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.

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. § 300.322(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 law requires.

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, 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 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 enrolled in Richard Milburn Academy written notice of the qualifications of each teacher employed by Richard Milburn Academy.

Additionally, the Superintendent or designee shall, at the beginning of each school year, notify the parents of each student attending Richard Milburn Academy 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 the teacher.
4. Whether the student is provided services by paraprofessionals and, if so, their qualifications.

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.

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:

5. Evaluating, reevaluating, and determining eligibility for special education and related services;
6. Placement of students with disabilities, including disciplinary changes in placement;
7. Development of student IEPs;
8. 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;
9. Compliance with the least restrictive environment standard;
10. Compliance with state requirements for reading diagnosis and state assessments;
11. Development of personal graduation plans;
12. Development of accelerated instruction under TEX. EDUC. CODE § 28.0211 and intensive programs of instruction under TEX. EDUC. CODE § 28.0213;
13. Evaluation, placement, and coordination of services for students who are deaf, hard of hearing, blind, or visually impaired; and
14. 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).

SEC. 3. COMMITTEE MEMBERS

Richard Milburn Academy shall ensure that each ARD committee meeting includes all of the following:

1. The parents of a child with a disability;
2. At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment) who must, to the extent practicable, be a teacher who is responsible for implementing a portion of the student’s IEP;
3. At least one special education teacher, or where appropriate, at least one special education provider of the child;
4. A representative of Richard Milburn Academy who:
 - a. Is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities;
 - b. Is knowledgeable about the general education curriculum; and
 - c. Is knowledgeable about the availability of Richard Milburn Academy’s resources;

5. An individual who can interpret the instructional implications of evaluation results, who may be a member of the ARD committee (who may be a member of the committee listed in items 2–5);
6. At the discretion of the parent or Richard Milburn Academy, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate;
7. The child, whenever appropriate;
8. A representative from career and technical education, preferably the teacher, when considering initial or continued placement of a student in a career and technical education program;
9. For a child with limited English proficiency, a member of the child’s language-proficiency assessment committee (“LPAC”) when deciding upon the selection of assessments and appropriate accommodations;
10. For a child with an auditory impairment, including deaf-blindness, a teacher who is certified in the education of children with auditory impairments; and
11. For a child with a visual impairment, including deaf-blindness, a teacher who is certified in the education of children with visual impairments.

20 U.S.C. § 1414(d)(1)(B); 34 C.F.R. § 300.321; 19 TEX. ADMIN. CODE §§ 75.1023(d)(1), 89.1131(b)(3), (4), 101.1009.

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) 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.

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, such as:

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.

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, the 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. 19 TEX. ADMIN. CODE § 89.1050(e).

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

Upon completion of the administration of assessments and other evaluation measures, a team of qualified professionals and the parent shall make the determination of whether the child has a disability and of the educational needs of the child.

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, if appropriate, IEP and placement within 30 calendar days from the date of the completion of the written full individual and initial evaluation report. If the 30th day falls during the summer and school is not in session, the student's ARD committee has until the first day of classes in the fall to finalize decisions concerning the student's initial eligibility determination, IEP, and placement, unless the full individual and initial evaluation indicates that the student will need extended school year ("ESY") services during that summer.

When a report is provided to a parent not later than June 30 as described at Timeframe for Completion of Written Report, above, the ARD committee must meet not later than the 15th school day of the following school year to consider the evaluation. If, however, an evaluation indicates that a student will need ESY services, the ARD committee must meet as expeditiously as possible. 19 TEX. ADMIN. CODE § 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. 20 U.S.C. § 1412(a)(4); 34 C.F.R. § 300.320(a).

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. § 1414(d)(2)(A); 34 C.F.R. § 300.323(a).

The term "individualized education program" 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(e)–(f).

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.

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. The ARD committee members who disagree shall be offered the opportunity to write their own statements.

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

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.

After the annual IEP meeting for a school year, the parent and Richard Milburn Academy may agree not to convene an IEP meeting for the purposes of making changes to the IEP and instead may develop a written document to amend or modify the child's current IEP.

Upon request, a parent shall be provided with a revised copy of the IEP with amendments incorporated.

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

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 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. 19 TEX. ADMIN. CODE § 101.3023(a).

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

In accordance with Tex. Educ. Code §§ 29.011 and 29.0111, not later than when a student reaches 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. If the student is younger than 18 years of age, appropriate parental involvement in the student's transition;
3. If the student is at least 18 years of age, appropriate parental involvement in the student's transition, if the parent is invited to participate by the student or Richard Milburn Academy;
4. Any postsecondary education options;
5. A functional vocational evaluation;
6. Employment goals and objectives;
7. If the student is at least 18 years of age, the availability of age-appropriate instructional environments;
8. Independent living goals and objectives; and

9. Appropriate circumstances for referring a student or the student's parents to a governmental agency for services.

In accordance with 34 C.F.R. § 300.320(b), 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.

20 U.S.C. §§ 1414(d)(1)(A)(i)(VIII), 1414(d)(6); 34 C.F.R. § 300.320(b); TEX. EDUC. CODE § 29.0111; 19 TEX. ADMIN. CODE § 89.1055(h), (j).

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) Graduation

Graduation with a regular high school diploma under 19 TEX. ADMIN. CODE § 89.1070(b)(1), (b)(2)(D), (f)(1), (f)(2), or (f)(3)(D) terminates a student's eligibility for special education services. For students who receive a diploma according to 19 TEX. ADMIN. CODE § 89.1070(b)(2)(A), (B), or (C) or (f)(3)(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 prior written 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 FAPE 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 C.F.R. §§ 300.102(a)(3), 300.305(e)(2); 19 TEX. ADMIN. CODE § 89.1070.

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:

15. 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
16. 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)).

6.6 CHILD FIND DUTY (2019-2020 UPDATE)

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.

6.7 CHILDREN WHO TRANSFER
STUDENTS WHO TRANSFER WITH AN IEP

When a student transfers to Richard Milburn Academy from another school 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 individualized education program (“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.

If the student with a disability transfers to Richard Milburn Academy from a school outside of Texas, Richard Milburn Academy shall provide the student with FAPE, including comparable services, until Richard Milburn Academy conducts an evaluation and develops, adopts, and implements a new IEP. (34 C.F.R. § 300.323).

A new IEP must be implemented within 30 school days from the date the student is verified as being a student eligible for special education services.

If a student transfers from Richard Milburn Academy, Richard Milburn Academy will furnish the student’s special education records to the student’s new school not later than the 10th working day after the date a request for the information is received by Richard Milburn Academy. (19 TEX. ADMIN. CODE § 89.1050(j)(3)).

6.8 CLOSING THE GAP

SEC. 1. PREKINDERGARTEN PROGRAMS

Richard Milburn Academy open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by the Texas Education Code or a rule adopted under that code, relating to prekindergarten programs under Subchapter E, Chapter 29, Texas Education Code.

(TEX. EDUC. CODE § 12.104(b)(2)(H)).

SEC. 2. 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).

SEC. 3. STUDENT WITH DISABILITIES AND LIMITED ENGLISH PROFICIENCY

Richard Milburn Academy shall ensure that a 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. 4. 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. 5. 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. 6. 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. 7. 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. 8. ENROLLMENT OF STUDENTS IN PROGRAM

Richard Milburn Academy shall comply with the TEA criteria for identification, assessment, and classification of students of limited English proficiency eligible for entry into the program or exit from the program. (TEX. EDUC. CODE § 29.056(a)).

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. 9. 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. 10. ENROLLMENT OF STUDENTS WHO DO NOT HAVE LIMITED ENGLISH PROFICIENCY

Richard Milburn Academy ensures that enrollment of students who do not have limited English proficiency may occur only if the requirements of TEC §29.058 are met. (TEC §29.058).

SEC. 11. COOPERATION AMONG SCHOOLS

Richard Milburn Academy may cooperate with other schools to provide a bilingual education or special language program. (TEC §29.059).

SEC. 12. PRESCHOOL, SUMMER SCHOOL, AND EXTENDED TIME PROGRAMS

Richard Milburn Academy open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by the Texas Education Code or a rule adopted under that code, relating to prekindergarten programs under Subchapter E, Chapter 29, Texas Education Code. (TEX. EDUC. CODE § 12.104(b)(2)(H)).

SEC. 13. 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. 14. 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. 15. 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).

6.9 CONSENT AND PRIOR WRITTEN NOTICE
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:

- 6.9.1 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.
- 6.9.2 An opportunity for the parents to obtain an independent educational evaluation of the child. 34 C.F.R. § 300.502.
- 6.9.3 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.
- 6.9.4 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.
- 6.9.5 Procedures to allow parties to resolve disputes through a mediation process. 34 C.F.R. § 300.506.
- 6.9.6 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.
- 6.9.7 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. 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. 3. 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. 4. 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. 5. PRIOR NOTICE AND CONSENT

Whenever Richard Milburn Academy proposes or refuses to initiate or change the identification, evaluation, or educational placement of a student or the provision of a free appropriate public education to the student, Richard Milburn Academy must provide prior written notice as required in 34 C.F.R., § 300.503, including providing the notice in the parent's native language or other mode of communication. This notice must be provided to the parent or adult student at least five school days before the school district proposes or refuses the action unless the parent or adult student agrees to a shorter timeframe. 19 TEX. ADMIN. CODE § 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 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).

SEC. 6. 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).

SEC. 7. 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).

SEC. 8. CONSENT TO REEVALUATION

Richard Milburn Academy shall obtain informed parental consent before conducting any reevaluation of a child with a disability under the age of 18, 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. Richard Milburn Academy shall obtain informed adult student consent before conducting any reevaluation of an adult student with a disability above the age of 18.
20 U.S.C. § 1414(c)(3).

SEC. 9. 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. 10. PSYCHOLOGICAL EXAMINATIONS AND TESTS

On request of a child’s parent or adult student, before obtaining the parent’s or adult student’s consent for the administration of any psychological examination or test to the child or adult student as part of the evaluation of the child’s or adult student’s need for special education, Richard Milburn Academy shall provide to the child’s parent or adult student:

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 or adult student.

If Richard Milburn Academy determines that an additional examination or test is required for the evaluation of a child’s or adult student’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).

SEC. 11. 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. 12. 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. 13. 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).

6.10 COORDINATION 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.

6.11 DISCIPLINE, RESTRAINT AND TIME-OUT

SEC. 1. 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.

SEC. 2. 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. However, Richard Milburn Academy must not exceed 10 cumulative days within a school year without first holding a Manifestation Determination Review (“MDR”).

a) Services During Removal

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.

SEC. 3. SUBSEQUENT REMOVALS OF TEN DAYS 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.

b) Services During Removal

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”).

SEC. 4. 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.

SEC. 5. 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.

For purposes of disciplinary removal of a student with a disability, a change in placement occurs if a student is:

6.11.1 Removed from the student's current educational placement for more than ten consecutive school days; or

6.11.2 Subjected to a series of removals that constitute a pattern because:

6.11.2.1 The series of removals total more than ten school days in a school year;

6.11.2.2 The student's behavior is substantially similar to the student's behavior in the previous incidents that resulted in the series of removals; and

6.11.2.3 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.

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.

SEC. 6. 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.

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.

i. 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.

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.

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 Milburn Academy.

The ARD committee shall determine the interim alternative education setting.

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.

SEC. 7. 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.

SEC. 8. 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").

SEC. 9. 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.

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.

b) Exception

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.

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.

SEC. 10. 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.

a) 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; 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.

Further, Tex. Educ. 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 Tex. Educ. Code § 37.007(a)(1).

SEC. 11. 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.

SEC. 12. 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.

SEC. 13. 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.

“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.

“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.

a) 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 TEX. ADMIN. CODE § 89.1053(d).

b) Documentation

In a case in which restraint is used, Richard Milburn Academy employees, volunteers, or independent contractors shall implement the documentation requirements set forth at 19 TEX. ADMIN. CODE § 89.1053(e).

SEC. 14. 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 may only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student's IEP and/or BIP if it is utilized on a recurrent basis to increase or decrease targeted behavior.
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.

“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.

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.

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.

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 Texas Education Agency's *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders (Dyslexia Handbook)*.

SEC. 2. IDENTIFICATION AND TESTING

Screening and further evaluation should be done only by individuals or professionals who are trained in valid, evidence-based assessments and who are trained to appropriately evaluate students for dyslexia and related disorders.

Before an identification or assessment procedure is used selectively with an individual student, Richard Milburn Academy must notify the student's parent or guardian or another person standing in parental relation to the student.

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. 3. TREATMENT

Richard Milburn Academy shall provide each identified student access at his or her campus to instructional programs and to the services of a teacher trained in dyslexia and related services. Richard Milburn Academy may, with the approval of each student's parents or guardians, offer additional services at a centralized location, so long as such centralized services do not preclude each student from receiving services at his or her campus.

a) Reading Program

Richard Milburn Academy shall purchase a reading program or develop its own reading program for students with dyslexia and related disorders that is aligned with the descriptors found in the *Dyslexia Handbook*.

Teachers who screen and treat these students must be trained in instructional strategies that utilize individualized, intensive, multi-sensory, phonetic methods and a variety of writing and spelling components described in the *Dyslexia Handbook*. The professional development activities specified by each school and/or campus planning committee shall include these instructional strategies.

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.

SEC. 4. PARENTAL NOTIFICATIONS

Richard Milburn Academy shall inform parents and guardians of students eligible under Section 504 of all services and options available to the student under that law. The notice must be in English, or to the extent practicable, the individual's native language and must include the following:

1. A reasonable description of the evaluation procedure to be used with the individual student;
2. Information related to any instructional intervention or strategy used to assist the student prior to evaluation;
3. An estimated time frame within which the evaluation will be completed; and
4. Specific contact information for the campus point of contact, relevant parent training and information projects, and other appropriate parent resources.

Parents and guardians of students with dyslexia or a related disorder must be informed of all services and options available to the student, including general education interventions under response to intervention and multi-tiered systems of support modules as required by Tex. Educ. Code § 26.0081.

SEC. 5. PARENT EDUCATION PROGRAM

Richard Milburn Academy shall develop and provide a parent education program for parents and guardians of students with dyslexia and related disorders. This program should include:

- Awareness of characteristics of dyslexia and related disorders;
- Information on testing and diagnosis of dyslexia;
- Information on effective strategies for teaching dyslexic students; and
- Awareness of information on modification, especially modifications allowed on standardized testing.

TEX EDUC. CODE § 38.003; 19 TEX. ADMIN. CODE § 74.28.

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 services. Through an evaluation, if a student is found to have a disability in one of the following categories, and has an educational need, they may be found eligible for special education:

1. Intellectual Disability;
2. Hearing impairment;
3. Visual Impairment;
4. Speech or Language impairment;
5. Emotional disturbance;
6. Orthopedic impairment;
7. Other health impairment;
8. Traumatic brain injury;
9. Deaf-blindness;
10. Specific Learning Disability;
11. Autism;
12. Developmental delay; or
13. Multiple Disabilities.

(34 C.F.R. § 300.008)

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 data 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, an individualized education program (“IEP”) must be developed for the student in accordance with 34 C.F.R. §§ 300.320 - 300.324. (34 C.F.R. § 300.306).

A student is not eligible for special education services through the evaluation, if a student is found to only need related services. A student cannot be found eligible for services if the determinant factor for that determination is lack of appropriate instruction in reading, including in the essential components of reading instruction, lack of appropriate instruction in math, or limited English proficiency. (34 C.F.R. § 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. 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. 4. SPEECH OR LANGUAGE 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. 5. EMOTIONAL DISTURBANCE

A student may be eligible for services as a student with an emotional disturbance 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 peers and

- 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 disturbance includes schizophrenia, but does not include children who are socially maladjusted, unless it is determined that they have an emotional disturbance. A written evaluation must include recommendations for behavior intervention strategies. (34 C.F.R. § 300.8(c)(4); 19 TEX. ADMIN. CODE § 89.1040(c)(4)).

SEC. 6. 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(10)).

The multidisciplinary team determining eligibility must include a licensed physician. (19 TEX. ADMIN. CODE § 89.1040(10)).

SEC. 7. OTHER HEALTH IMPAIRMENT (OHI)

A student with limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli caused by chronic or acute health problems such as:

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.

If the health condition limits alertness in the educational environment and adversely impacts a student's learning, he or she is eligible for OHI. In determining eligibility, Richard Milburn Academy shall include a licensed physician on the multidisciplinary team.

SEC. 8. 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.

Richard Milburn Academy shall include a licensed physician, and a licensed specialist in school psychology (LSSP), an educational diagnostician, or other appropriately certified or licensed practitioner with experience and training in this area to review the data and determine eligibility. (19 TEX. ADMIN. CODE § 89.1040(11)).

SEC. 9. HEARING OR AUDITORY IMPAIRMENT AND DEAFNESS

A student with an impairment in hearing, whether permanent or fluctuating, that adversely affects a student's educational performance but is not included under the definition of deafness.

The student's evaluation must include an otological examination performed by an otologist or by a licensed medical doctor, with documentation that an otologist is not reasonably available. Richard Milburn Academy shall also conduct an audiological evaluation by a licensed audiologist. 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 amplification. (34 C.F.R. § 300.8(c)(5); 19 TEX. ADMIN. CODE § 89.1040(c)(3)).

SEC. 10. DEAFNESS

Deafness is a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification that adversely affects a student's educational performance. (34 C.F.R. § 300.8(c)(3)).

SEC. 11. VISUAL IMPAIRMENT INCLUDING BLINDNESS

An impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness. (34 C.F.R. § 300.8(c)(13)).

A student with a visual impairment is one who:

1. has been determined by a licensed ophthalmologist or optometrist to have no vision or to have a serious visual loss after correction; or to have a progressive medical condition that results in no vision or a serious visual loss after correction.
2. has been determined by the following evaluations to have a need for special services, including:

- a. a functional vision evaluation by a professional certified in the education of students with visual impairments or a certified orientation and mobility instructor. 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 and an orientation and mobility evaluation; or
- b. a learning media assessment by a professional certified in the education 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.

(19 TEX. ADMIN. CODE § 89.1040(12)(A)).

Through evaluation, Richard Milburn Academy should state the student's visual loss in exact measures of visual field and corrected visual acuity at a distance and at close range in each eye by a licensed ophthalmologist or optometrist. The report should also include prognosis whenever possible. If exact measures cannot be obtained, the eye specialist must so state and provide best estimates.

A student that qualifies as a student with a visual impairment is considered functionally blind if, based on the preceding evaluations, the student will use tactual media (which includes Braille) as a primary tool for learning to be able to communicate in both reading and writing at the same level of proficiency as other students of comparable ability. (19 TEX. ADMIN. CODE § 89.1040(12)(B)).

SEC. 12. 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 special education intervention, will adversely affect the student's educational performance.

(19 TEX. ADMIN. CODE § 89.1040(c)).

SEC. 13. SPECIFIC LEARNING DISABILITY

Specific learning disability includes 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, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. (34 C.F.R. § 300.8(c)(10)).

In addition to being identified as having a disorder that impacts a basic psychological process, Richard Milburn Academy shall also show that the student does not achieve adequately for the student's age or meet state-approved grade-level standards in oral expression, listening comprehension, written expression, basic reading skill, reading fluency skills, reading comprehension, mathematics calculation, or mathematics problem solving when provided appropriate instruction, as indicated by performance on multiple measures such as in-class tests; grade average over time (e.g. six weeks, semester); norm- or criterion- referenced tests; statewide assessments; or a process based on the child's response to scientific, research-based intervention.

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, grade-level standards, or intellectual ability, as indicated by significant variance among specific areas of cognitive function, such as working memory and verbal comprehension, or between specific areas of cognitive function and academic achievement.

(19 TEX. ADMIN. CODE § 89.1040(c)(9)).

A specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage. (34 C.F.R. § 300.8(c)(10)).

Prior to identifying a student as one with a learning disability, Richard Milburn Academy shall ensure that the suspected disability is not due to lack of educational opportunity or lack of appropriate instruction. Richard Milburn Academy shall consider data that shows the student has received appropriate instruction in math and reading in the general education setting. Richard

Milburn Academy shall also consider documentation of repeated assessments of achievement at reasonable intervals, reflecting formal evaluation of student progress during instruction. This may include, but is not limited to, RTI progress results, 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. (19 TEX. ADMIN. CODE § 89.1040(c)(9)).

SEC. 14. 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 disturbance, as defined above and in 34 C.F.R. § 300.8(c)(4). (34 C.F.R. § 300.8(c)(1)).

The written evaluation determining eligibility under autism must include recommendations for behavior interventions. (19 TEX. ADMIN. CODE § 89.1040(c)(1)).

SEC. 15. MULTIPLE DISABILITIES

A student may qualify as a student with multiple disabilities if they are identified to have a combination of impairments (such as mental retardation-blindness or mental retardation-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 expected to continue indefinitely 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)).

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 for possible special education services shall be a part of Richard Milburn Academy's overall general education referral or screening system. Either a parent, the Texas Educational Agency ("TEA"), another state agency, or Richard Milburn Academy may initiate a request for an initial evaluation.

a) Obligation to Refer

Before referral, students experiencing difficulty in the general classroom should be considered for all support services available to all students. If a student continues to experience difficulty in the general classroom after the provision of interventions, Richard Milburn Academy personnel must refer the student for a full and individual initial evaluation. 20 U.S.C. § 1414(a)(1); 34 C.F.R. § 300.301; 19 TEX. ADMIN. CODE § 89.1011.

b) Parent or adult student Request

If a parent or adult student submits a written request for a full individual and initial evaluation of a student, Richard Milburn Academy shall, not later than the 15th school day after the date Richard Milburn Academy receives the request:

1. Provide the parent or adult student with prior written notice of its proposal to conduct an evaluation consistent with 34 C.F.R. § 300.503, a copy of the procedural safeguards notice required by 34 C.F.R. § 300.504, and an opportunity to give written consent for the evaluation; or
2. Provide the parent or adult student with prior written notice of its refusal to conduct an evaluation consistent with 34 C.F.R. § 300.503, and a copy of the procedural safeguards notice required by 34 C.F.R. § 300.504.

20 U.S.C. § 1414(a)(1); 34 C.F.R. § 300.301; 19 TEX. ADMIN. CODE § 89.1011(a), (b); TEX. EDUC. CODE § 29.004(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 a full and individual initial evaluation 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. PROVIDING ASSISTANCE TO STUDENTS WHO HAVE LEARNING DIFFICULTIES OR NEED SPECIAL EDUCATION SERVICES

If a student is experiencing learning difficulties, the parent may contact their child’s campus principal to learn about Richard Milburn Academy’s overall general education referral or screening system for support services. This system links students to a variety of support options, including referral for a special education evaluation. Students having difficulty in the regular classroom should be considered for tutorial, compensatory, and other academic or behavior support services that are available to all students, including a process based on Response to Intervention (“RtI”). The implementation of RtI has the potential to have a positive impact on Richard Milburn Academy’s ability to meet the needs of all struggling students.

At any time, a parent is entitled to request an evaluation for special education services by presenting a written request to Director of Special Education Services or to a Richard Milburn Academy administrative employee. Richard Milburn Academy must, within 15 school days of receiving the request, either (1) give the parent an opportunity to give written consent for the evaluation or (2) refuse to provide the evaluation and provide the parent with written notice that explains why the child will not be evaluated. This written notice will include a statement that informs the parents of their rights if they disagree with Richard Milburn Academy. Additionally, the parent will receive a copy of the *Notice of Procedural Safeguards – Rights of Parents of Students with Disabilities*.

If consent for evaluation is obtained, Richard Milburn Academy must generally complete the evaluation and report within 45 school days of the date Richard Milburn Academy receives the written consent. Richard Milburn Academy must give a copy of the evaluation report to the parent.

SEC. 5. 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.

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 progress, and records relating to assistance provided for learning difficulties, including information collected regarding any intervention strategies used with the child or adult student.

6.16 EVALUATION

SEC. 1. 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. 2. 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, 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)).

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 for more than three 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:

A student enrolls in the current school after the relevant time frame has begun and before the previous school made 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
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 has until the first day of classes in the fall to finalize decisions concerning the student's initial eligibility determination, individualized education program ("IEP"), and placement, unless the full individual and initial evaluation indicates that the student will need extended school year services during that summer.

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).

SEC. 3. SPECIFIC LEARNING DISABILITY EVALUATION

The Texas Education Agency (“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. 4. FUNCTIONAL BEHAVIOR ASSESSMENT (FBA)

A functional behavior assessment (“FBA”) may be necessary for a student whose behavior impedes their education. Prior to completing an FBA, Richard Milburn Academy shall get consent from the parent or adult student. (34 C.F.R. §§ 300.9)

If an ARD committee determines a change of placement is necessary due to the student’s behavior, it must conduct an FBA and implement a behavioral intervention plan (“BIP”). If an FBA was already completed, the ARD committee must review and update the BIP. (34 C.F.R. § 300.350(f)).

SEC. 5. 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. 6. 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. 7. 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. 8. 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. 9. 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 or 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. 10. 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. 11. 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. 12. 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. 13. 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 of IDEA.

(34 C.F.R. § 300.502).

SEC. 14. 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. 15. 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 Tex. 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)).

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.

6.18 FUNDING – NONEDUCATIONALSERVICES
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)).

6.19 FUNDING – SHARED SERVICES ARRANGEMENTS
SEC. 1. SHARED SERVICES ARRANGEMENT

Richard Milburn Academy may enter into a written contract 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 shared services arrangement schools/charters' agreement, TEA General and Fiscal Guidelines and Texas Government Code Chapter 791 (interlocal agreements).

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 1.1 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 § 37.08 (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).

6.21 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. ARD COMMITTEE AND IEP

For each student who is at least 14 years of age and qualifies for special education, the admission, review, and dismissal (“ARD”) committee must begin transition planning. The ARD committee must also consider the student’s graduation plan and what state assessments are required for graduation. (TEX. EDUC. CODE § 29.0111; 19 TEX. ADMIN. CODE § 89.1070).

SEC. 3. SPECIAL EDUCATION ELIGIBILITY UPON GRADUATION

Graduation with a regular high school diploma terminates a student’s eligibility for special education and related services. 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 C.F.R. § 300.102).

A student who receives a diploma, but took one or more classes with a modified curriculum, may request the ARD committee determine needed educational services as long as the student meets the age eligibility requirements. Modified curriculum is defined as curriculum or content that is reduced in amount or complexity of the required Texas Essential Knowledge and Skills (“TEKS”). (19 TEX. ADMIN. CODE § 89.1070).

SEC. 4. GRADUATION REQUIREMENTS UNDER THE FOUNDATION HIGH SCHOOL PROGRAM

A student with a disability that receives special education services and who enters 9th grade in or after the 2014-2015 school year, may receive a regular high school diploma if the student:

1. Demonstrates mastery of the required states standards;
2. Completes the credit requirements under the Foundation High School Program; or
3. Achieves satisfactory performance on the required state assessment unless the ARD committee determines that satisfactory performance on the required state assessment is not necessary for graduation.

A student who receives special education services entering 9th grade in 2014-2015 or after may also earn a high school diploma if the student meets the above requirements and successfully completes the individualized education program (“IEP”) and meets one of the following:

1. consistent with the IEP, the student obtains full-time employment and masters sufficient self-help skills to enable the student to maintain employment without direct or ongoing educational support;

2. consistent with the IEP, demonstrated mastery of specific employability skills and self-help skills that do not require ongoing educational support;
3. has access to services that are not within the legal responsibility of Richard Milburn Academy or educational options for which the student has been prepared for by the academic program; or
4. no longer meets eligibility requirements

(19 TEX. ADMIN. CODE § 89.1070; TEX. EDUC. CODE § 28.025).

SEC. 5. ENDORSEMENTS UNDER THE FOUNDATION HIGH SCHOOL PROGRAM

A student receiving special education services, may receive an endorsement if the student:

1. Completes the requirements for graduation under the Foundation High School Program and completes the additional credits requirements in mathematics, science, and elective courses required for an endorsement with or without modified curriculum; or
2. Completes the courses required for the endorsement without modified curriculum; and
3. Performs satisfactorily on the state assessment.

A student who is in 11th or 12th grade in 2014-2015, 2015-2016, or 2016-2017 school years who took each of the required assessments, but failed to achieve satisfactorily on no more than two assessments is eligible for an endorsement if the student meets the other endorsement requirements.

For students receiving special education services, if the student wants to use a course to satisfy both the Foundation High School Program requirements and for the endorsement requirement, the course must be completed without modified curriculum.

(19 TEX. ADMIN. CODE § 89.1070; TEX. EDUC. CODE § 28.025).

SEC. 6. TRANSITIONING TO THE FOUNDATION HIGH SCHOOL PROGRAM

For students who entered 9th grade prior to the 2014-2015 school year, a student may receive a diploma under the Foundation High School Program if the student's ARD committee determines the student should take courses under the Foundations program and the student completes the requirements.

A student transitioning may also receive an endorsement if he or she meets the requirements.

A student who is in 11th or 12th grade in the 2014-2015, 2015-2016, or 2016-2017 school years and transitioning to the Foundation High School Program, who took each of the required assessments, but failed to achieve satisfactorily on no more than two assessments may graduate if the student met the other graduation requirements.

(19 TEX. ADMIN. CODE § 89.1070; TEX, EDUC. CODE § 28.025).

SEC. 7. SUBSTITUTIONS UNDER THE FOUNDATION HIGH SCHOOL PROGRAM

a) Language other than English

If the ARD committee determines that a student with a disability is unable to complete two credits in the same language other than English, the ARD committee may determine to:

1. substitute a combination of two credits from ELA, math, science, or social studies; or
2. substitute two credits of CTE, technology applications, or other academic electives.

(TEX. EDUC. CODE § 74.12(b)(5)(D)(i); § 28.025(b-14)(1).

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 one credit in English language arts, mathematics, science, or social studies or one academic elective credit 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:

- The student’s ARD committee, if the student receives special education services under the IDEA and Texas Education Code Chapter 29;
- 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. § 794; or
- If each of the described committees is inapplicable, a committee established by the school of persons with appropriate knowledge regarding the student.

(TEX. EDUC. CODE § 28.025(b-11)).

Credits allowed as a substitution for the language and PE requirement may not be used to satisfy other graduation credit requirements.

(TEX. EDUC. CODE § 28.025(b-11) and (b-14)).

SEC. 8. DISTINGUISHED ACHIEVEMENT, RECOMMENDED, AND MINIMUM HIGH SCHOOL PROGRAM

A student receiving special education services who entered 9th grade before the 2014-2015 school year, may graduate with a regular diploma if the student:

1. Demonstrates mastery of the state standards;
2. Completes credit requirements for graduation under the recommended or distinguished program; and
3. Achieves satisfactory performance on the required state assessment.

A student who is in 11th or 12th grade in 2014-2015, 2015-2016, or 2016-2017 school years and who took each of the required assessments, but failed to achieve satisfactorily on no more than two assessments may graduate under the recommended or distinguished program if the student met the other graduation requirements.

A student receiving special education services who entered 9th grade before the 2014-2015 school year, may also graduate with a regular diploma if the student:

1. Demonstrates mastery of the state standards;
2. Completes credit requirements for graduation under the minimum program; and
3. Participates in or satisfactorily performs on the required state assessment as determined by the ARD committee.

A student receiving special education services who entered 9th grade before the 2014-2015 school year, may also graduate with a regular diploma if the student:

1. Demonstrates mastery of the state standards through courses, one or more of which contained modified content and is aligned with the requirements under the minimum high school program;
2. Completes credit requirements for graduation under the minimum program;
3. Participates in or satisfactorily performs on the required state assessment as determined by the ARD committee; and
4. 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;
 - b. consistent with the IEP, demonstrated mastery of specific employability skills and self-help skills that do not require ongoing educational support;
 - c. has access to services that are not within the legal responsibility of Richard Milburn Academy or educational options for which the student has been prepared for by the academic program; or
 - d. No longer meets eligibility requirements.

19 Tex. Admin. Code § 89.1070.

SEC. 9. HIGH SCHOOL DIPLOMA AND CERTIFICATE; ACADEMIC ACHIEVEMENT RECORD

Richard Milburn Academy does issue a certificate of coursework completion to a student who successfully completes the curriculum requirements identified by the SBOE under TEX. EDUC. CODE § 28.025(a) but who fails to comply with TEX. EDUC. CODE § 39.025 (Secondary-Level Performance Required) relating to exit-level assessment requirements. Richard Milburn Academy does allow a student who receives a certificate to participate in a graduation ceremony with students receiving high school diplomas. (TEX. EDUC. CODE § 28.025(d)).

SEC. 10. CERTIFICATE OF ATTENDANCE

Richard Milburn Academy does issue a Certificate of Attendance to a student who receives special education services under the Individuals with Disabilities Education Act (“IDEA”), and who has completed four years of high school but has not completed the student's IEP. Richard Milburn Academy shall allow a student who receives a certificate to participate in a graduation ceremony with students receiving high school diplomas. A student may participate in only one graduation ceremony. Receiving a Certificate of Attendance does not preclude a student from receiving a diploma. (TEX. EDUC. CODE § 28.025(f)).

SEC. 11. PROMOTION TO 6TH OR 9TH GRADE

A student may not be promoted to 6th grade if the student does not perform satisfactorily on the 5th grade mathematics and reading assessments.

A student may not be promoted to 9th grade if the student did not perform satisfactorily on the 8th grade mathematics and reading assessments.

Each time a student fails to perform satisfactorily on an assessment administered under Section 39.023(a) in the 3rd, 4th, 5th, 6th, 7th, or 8th grade, Richard Milburn Academy shall provide the student with accelerated instruction in the applicable subject area. Accelerated instruction may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations.

The ARD committee of a student who participates in Richard Milburn Academy’s special education program and who does not perform satisfactorily on an assessment shall determine:

1. the manner in which the student will participate in an accelerated instruction program under this section; and
2. whether the student will be promoted or retained under this section.

(TEX. EDUC. CODE § 28.0211).

6.22 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.

6.23 PRIVATE SCHOOL CHILDREN
SEC. 1. CHILD FIND PRIVATE SCHOOL STUDENTS

Richard Milburn Academy shall coordinate with home school districts, who are primarily responsible for consulting with private school representatives, regarding the child find process and the provision of special education and related services to children enrolled in private schools within Richard Milburn Academy's boundaries.

Richard Milburn Academy shall undertake activities similar to those undertaken for children enrolled in public schools and shall complete the child find process for children enrolled in private schools in a time period comparable to that for other students attending the public schools within Richard Milburn Academy's boundaries. 20 U.S.C. § 1412(a)(10)(A)(ii)–(iv).

SEC. 2. SPECIAL EDUCATION STUDENTS PLACED IN PRIVATE SCHOOL

a) Placement by Richard Milburn Academy

If Richard Milburn Academy places a child with a disability in a private school or facility, or refers the child to a private school or facility, as a means of carrying out the requirements of the special education laws, Richard Milburn Academy shall ensure that the child is provided special education and related services, in accordance with an individualized education program ("IEP"), at no cost to the parents. 20 U.S.C. § 1412(a)(10)(B)(i).

b) Placement by the Parent

When a student with a disability who has been placed by his or her parent directly in a private school is referred to Richard Milburn Academy, Richard Milburn Academy shall convene an admission, review, and dismissal ("ARD") committee to determine whether Richard Milburn Academy can offer the child a free appropriate public education ("FAPE"). If Richard Milburn Academy determines that it can offer a FAPE to the student, Richard Milburn Academy is not responsible for providing educational services to the student, except as provided in 34 C.F.R. § 300.130–300.144 or 19 TEX. ADMIN. CODE § 89.1096(e), until such time as the parents choose to enroll the student in Richard Milburn Academy full time. 19 TEX. ADMIN. CODE § 89.1096(b).

SEC. 3. REJECTION OF OFFER OF FAPE

a) Student Receives Individualized Services Plan

If Richard Milburn Academy offers to provide a FAPE to a child with a disability and the parents elect to place the child in a private school or facility, Richard Milburn Academy is not required to pay for the cost of education, including special education and related services. However, Richard Milburn Academy must develop and implement an individualized services plan ("ISP") for the child. 20 U.S.C. § 1412(a)(10)(C)(i); 34 C.F.R. § 300.148(a).

b) Reimbursement

If the parents of a child with a disability, who previously received special education and related services under the authority of Richard Milburn Academy, enroll the child in a private school without the consent or referral by Richard Milburn Academy, a court or a hearing officer may require Richard Milburn Academy to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that Richard Milburn Academy had not made a FAPE available to the child in a timely manner before the enrollment. 20 U.S.C. § 1412(a)(10)(C)(ii); 34 C.F.R. § 300.148(c).

6.24 RECORDS

Student records shall be maintained for each student from the time the student begins attending 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.

SEC. 1. EDUCATION RECORDS

a) "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 the record.
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.

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 adult student; 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 adult student.

b) 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 Section 2-d (Access by Other Persons) below.

c) 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 (“TEA”) or by representatives of local health departments or the Texas Department of State Health Services (“TDSHS”). Richard Milburn Academy shall cooperate with other districts and schools in transferring students’ immunization records between other schools. Specific approval from students or parents is not required prior to making such record transfers.

d) Medical Records

The parent of a student under the age of 18 is entitled to access the student’s medical records maintained by Richard Milburn Academy. The adult student is also entitled to access his or her records maintained by Richard Milburn Academy. On request of a student’s parent or an adult student, Richard Milburn Academy shall provide a copy of the student’s medical records to the parent or adult student. Richard Milburn Academy may not impose a charge that exceeds the amount authorized by Texas Government Code § 552.261.

e) 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 C.F.R. Part 164, with respect to protected health information that is not an education record.

f) Food Allergy Information

Information regarding a child’s or adult student’s food allergy, regardless of how it is received by Richard Milburn Academy, shall be retained in the student’s student records, but may not be placed in the health record maintained for the child or adult student by Richard Milburn Academy.

6.24.1.1 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 student by Richard Milburn Academy. A registered nurse may enter appropriate notes about a student’s possible food allergy

in the health record maintained for the student by Richard Milburn Academy, including a notation that the student's student records indicate that a parent or adult student has notified Richard Milburn Academy of the student's possible food allergy.

g) 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 if the student is under 18, 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.

h) Academic Achievement Records (Grades 9–12)

Richard Milburn Academy shall use the academic achievement record (transcript) form adopted by the State Board of Education ("SBOE"). 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.

i) 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 the school 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 of Education 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.

SEC. 2. ACCESS, DISCLOSURE, AND AMENDMENT

a) Definitions

i. “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.

ii. “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.

iii. “Parent”

“Parent” includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.

iv. “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 school 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.

v. “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.

vi. “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.

vii. “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 Richard Milburn Academy.

viii. “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.

b) 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.

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.

c) 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.

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.

d) Access by Other Persons

Personally identifiable information in education records shall not be released without the written consent of the student's parents or adult student, except to the following:

ix. School Officials

Richard Milburn Academy may disclose personally identifiable information without parent consent when disclosure is made to school officials with legitimate educational interest in the information. A school official is:

1. A person employed by Richard Milburn Academy as an administrator, instructor, or support staff member (including health or medical staff and law enforcement unit personnel).
2. A person serving on the Board.
3. A person or company with whom Richard Milburn Academy has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist).
4. A consultant, contractor, volunteer, or other party to whom Richard Milburn Academy has outsourced institutional services or functions, provided that the outside party:
 - a. Performs an institutional service or function for which Richard Milburn Academy would otherwise use employees;
 - b. Is under the direct control of Richard Milburn Academy with respect to the use and maintenance of education records; and
 - c. Is subject to the requirements of 34 C.F.R. § 99.33(a) governing the use and redisclosure of personally identifiable information from education records.
5. A parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

A school official has a legitimate educational interest if the official needs to review an educational record in order to fulfill his or her professional responsibility.

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.

x. 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.

xi. 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.

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 C.F.R. § 214.3, or any corresponding regulation.

xii. Financial Aid Personnel

Personnel involved with a student’s application for, or receipt of, financial aid.

xiii. 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 of the student.

xiv. 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.

xv. Accrediting Organizations

Accrediting organizations that require the information for purposes of accreditation.

xvi. 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.

xvii. 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.

xviii. 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.

xix. Directory Information

Any person requesting directory information after Richard Milburn Academy has given public notice of that definition

e) Written Consent

The parent or adult student 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.

f) Instructional Resources and Parental Rights

All instructional materials, including teacher's manuals, films, tapes, or other supplementary material that will be used in connection with any survey, analysis, or evaluation as part of any program funded in whole or in part by the U. S. Department of Education ("DOE") shall be available for inspection by the parents of students.

g) Information Collection

xx. DOE Funded Surveys

No student shall be required, as part of any program funded in whole or in part by the 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.

xxi. 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 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 or adult student notification in accordance with 20 U.S.C. § 1232(c)(2).

xxii. 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.

xxiii. 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.

h) Parental Rights and Student Privacy

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 survey is 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 the 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 any instructional material used in the educational curriculum for 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.
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 in this policy 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 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.

i) Request Procedure

Richard Milburn Academy must permit parents to inspect and review education records related to their minor that are collected, maintained, or used by the Richard Milburn Academy 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.

j) Destruction of Records

Richard Milburn Academy shall not destroy any education records if there is an outstanding request to inspect and review the records.

k) 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 or adult student'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.

l) 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.

m) 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.

n) Transfer Not Permitted

Personal information from student education records shall be transferred to a third party only 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 or adult student. 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.

Richard Milburn Academy shall inform a party to whom a disclosure is made of the requirements of 34 C.F.R. § 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.

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 C.F.R. § 99.31; and
2. Richard Milburn Academy has complied with the requirements of 34 C.F.R. § 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 C.F.R. § 99.32(b)(2).

o) 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 C.F.R. § 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 C.F.R. § 99.32(b)(2) and make it available in response to a parent's or adult student'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:

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.

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 or adult student, school officials responsible for custody of the records, and those state, local, and federal officials authorized to audit the operation of the system.

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.

p) Right to Amend Records

The parent of a student or adult student whose records are covered by this policy may ask Richard Milburn Academy to amend the student's record if the parent or adult student believes it contains information that is inaccurate, misleading, or in violation of the student's right of privacy or other rights. If Richard Milburn Academy decides not to amend the education records requested, it shall inform the parent or adult student 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 or adult student in writing. If, as a result of the hearing, Richard Milburn Academy decides not to amend the records, it shall inform the parent or adult student 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.

q) 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.

r) Records of Students with Disabilities

Richard Milburn Academy shall permit parents of a minor or adult student to inspect and review education records collected, maintained, or used for purposes of identifying, evaluating, placing, or educating students with disabilities.

i. Access Rights

In addition to policies applicable to all student records, the following guidelines shall apply when parents of a minor student or an adult student with disabilities request to review or inspect school 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 IEP 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.

ii. List of Types and Locations of Information

Richard Milburn Academy shall provide parents on request a list of types and locations of education records.

iii. Parental Consent

Parental or adult student consent must be obtained before personally identifiable information is used for any purpose other than meeting a requirement under the IDEA 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 or adult student consent except as provided in FERPA.

iv. 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.

v. Destruction of Information

Richard Milburn Academy shall inform parents or adult student 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 or adult student.

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.

s) 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.

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 C.F.R. § 99.31 authorize disclosure without consent; and

4. File with the DOE a complaint under 34 C.F.R. §§ 99.63 and 99.64 concerning alleged failures by Richard Milburn Academy to comply with the requirements of the Act and 34 C.F.R. § 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 C.F.R. § 99.20.
3. If Richard Milburn Academy has a policy of disclosing education records under 34 C.F.R. § 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.

t) 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. 3. 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 a reasonable time period set by the Superintendent, 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.

a) Definition

Richard Milburn Academy has designated the following categories of information as directory information for the purpose of disclosure relating solely to school-sponsored/school-affiliated purposes:

1. Student’s name;
2. Address;
3. Telephone listing;
4. Electronic mail address;
5. Photographs (including video images);
6. Date and place of birth;
7. Major field of study;

8. Dates of attendance;
9. Grade level;
10. Participation in officially recognized activities and sports;
11. Weight and height of members of athletic teams;
12. Degrees, honors, and awards received; and
13. The most recent educational agency or institution attended.

“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/activities that Richard Milburn Academy conducts and/or sponsors to support Richard Milburn Academy’s educational mission. Examples include, but are not limited to:

1. Extracurricular programs or events (e.g., school plays, concerts, athletic events, graduation ceremonies).
2. Publications (e.g., newsletters, yearbook, etc.).
3. Honor roll and other student recognition lists.
4. Marketing materials of the School (e.g., print media, website, videos, newspaper, etc.).

Richard Milburn Academy has designated the following categories of 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. Telephone listing; and
4. E-mail address.

b) Disclosure 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; and
2. Disclosure to military recruiters and institutions of higher education, but only for secondary students.

c) 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.

d) 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.

e) Confirmation of Identity or Records

Richard Milburn Academy may not disclose or confirm directory information without meeting the written consent requirements in 34 C.F.R. § 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.

f) Designation of Directory Information

Richard Milburn Academy may designate as directory information any or all information defined as directory information by FERPA. Directory information under that Act that is not designated by Richard Milburn Academy as directory information is excepted from disclosure by Richard Milburn Academy under Texas Government Code Chapter 552.

Directory information consented to by a parent or adult student for use only for a limited school-sponsored purpose, such as for a student directory, student yearbook, or school publication, if any such purpose has been designated by Richard Milburn Academy, remains otherwise confidential and may not be released under Texas Government Code Chapter 552.

g) Student Recruiting Information

Notwithstanding the provisions of Section 3 (Directory Information) above, upon receipt of assistance under the Elementary and Secondary Education Act of 1965 (ESEA), Richard Milburn Academy shall provide, on a request made by military recruiters or an institution of higher education, access to secondary school students' names, addresses, and telephone listings.

A secondary school student or the parent of the student may request that the student's name, address, and telephone listing described above not be released without prior written parental or adult student consent. Richard Milburn Academy shall notify parents or adult student of the option to make a request and shall comply with any request.

SEC. 4. INFORMATION FROM LAW ENFORCEMENT

a) 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.

b) 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 School 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.

c) 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.

d) 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 Texas Code of Criminal Procedure § 15.27.

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.

e) 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.

i. 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 the child;
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 copy of the requested record to the requesting party on or after the 21st day after the date of the request.

ii. 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.

iii. 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 clearinghouse. 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.

SEC. 5. 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).

6.25 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 Act request).
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 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.

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 this policy.

SEC. 2. RECORDS DECLARED PUBLIC PROPERTY

All records as defined in 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.

6.26 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

day after the 45th school business day if that day is not a school day, after the date the request is made.

SEC. 4. 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. 5. 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. 6. 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. 7. 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 an authorized person, including a parent or other person as set forth below under Confidentiality of Video Recordings, 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. 8. 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. 9 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. 10. 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. 11. 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. 12. 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.

6.27 GENERAL AND FISCAL GUIDELINES

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.



TCSA Model Board Policy Series

Module 100: *Financial Operations*
Charter Board Policy for RMA/ TX, Inc.

Richard Milburn Academy

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San Antonio, Texas 78123

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The following abbreviations are used throughout this Board Policy.

Atty. Gen. Op.	Attorney General Opinion
C.F.R.	Code of Federal Regulations
Tex. Admin. Code	Texas Administrative Code
Tex. Educ. Code	Texas Education Code
Texas Gov't Code	Texas Government Code
Tex. Labor Code	Texas Labor Code
Texas Local Gov't Code	Texas Local Government Code
EDGAR	Education Department General Administrative Regulations
U.S.C.A.	United States Code Annotated

100.020. ANNUAL OPERATING BUDGET

The governing body (“Board”) of RMA (also referred to as “RMA” or the “School”) adopts the following policy, which shall be effective on the date of adoption.

SECTION 1. Budget Process

SECTION 1.1. FASRG. The Superintendent will ensure that RMA follows a budgeting process that is consistent with the requirements in the Budgeting Module of the Texas Education Agency’s (“TEA”) Financial Accountability System Resource Guide.

SECTION 1.2. Superintendent. The Superintendent or designee is responsible for the preparation of the annual budget.

SECTION 1.3. District Improvement Plan. Each year before the annual operating budget is drafted the Superintendent shall ensure that a district improvement plan, which is based on a needs assessment of RMA, is drafted and finalized. The needs assessment and district improvement plan shall be completed by May 30th. The district improvement plan shall affect the drafting of the annual budget.

SECTION 1.4. Adoption. The Board shall formally adopt the budget, in a meeting open to the public, before the fiscal year of July 1st begins and before the expenditure of any funds.

SECTION 1.5. Minutes. The Secretary of the Board will record the adoption of the budget and any amendments in the Board meeting minutes in which the adoption occurs.

SECTION 1.6. Post-Adoption. After the adoption of the budget, the Superintendent and the Board shall review actual fund disbursements compared to the adopted budget and make amendments as needed. This shall occur soon after actual student enrollment is determined.

SECTION 2. Fiscal Compliance

The Superintendent shall ensure compliance with all state and federal laws and rules concerning the budget and related processes of the school, including but not limited to, laws and rules concerning online budget posting and financial solvency.

100.040 USE OF STATE FUNDS

The Board adopts the following policy, which shall be effective on the date of adoption.

SECTION 1. Use of State Funds

The Superintendent shall ensure that the School uses state funds only for lawful purposes.

SECTION 2. Prohibition Against Co-mingling of Charter and Non-Charter Business

The Superintendent shall ensure that the business activities of RMA not directly related to the management and operation of RMA shall be kept in a separate and distinct accounting, auditing, budgeting, reporting, and record keeping systems from those recording the business activities of the School.

SECTION 3. Interested Transactions

SECTION 3.1. Each member of the Board shall comply with all conflict of interest laws and rules applicable to affected board members.

SECTION 3.2. The Superintendent shall ensure that employees comply with all conflict of interest laws and rules applicable to affected employees.

SECTION 3.3. The Superintendent shall ensure that the following shall be recorded in the accounting, auditing, budgeting, reporting, and record keeping systems for the management and operation of the school:

- a. Financial transactions between the School and the non-charter activities of the charter holder;
- b. Financial transactions between the School and an officer or employee of the charter holder or the School;
- c. Financial transactions between the School and a member of the governing body of the charter holder or the School;
- d. Financial transactions between the School and a management company charged with managing the finances of a school; and
- e. Financial transactions between the School and any other person or entity in a position of influence over the charter holder or the School.

100.060 STATE FISCAL COMPLIANCE

The Board adopts the following policy, which shall be effective on the date of adoption.

SECTION 1. Fiscal Year

The Board adopts July 1st as the fiscal year for RMA.

SECTION 2. Financial Accounting

SECTION 2.1. Compliance. The Superintendent shall ensure that the School fully complies with generally accepted accounting principles, the TEA Financial Accountability System Resource Guide, TEA's Student Attendance Accounting Handbook, Public Education Information Management System (PEIMS), and any other applicable federal or state standards for financial management systems.

SECTION 2.2. Financial Reporting. The Superintendent or designee shall make an accurate, current, and complete disclosure of financially assisted activities in accordance with financial reporting requirements of each grant or sub-grant.

SECTION 2.3. Accounting Records. The Superintendent or designee shall maintain records that adequately identify the source and application of funds provided for activities assisted with state or federal funds.

SECTION 2.4. Internal Control. The Superintendent or designee shall maintain effective control and accountability of all federal grant and sub-grant cash, real and personal property, and other assets obtained with federal funds. The Superintendent or designee shall safeguard all such property and assure that it is used solely for authorized purposes.

SECTION 3. Grant Management Standards

SECTION 3.1. Compliance. If the School receives a grant directly from a state or federal agency the Superintendent shall ensure compliance with the grant requirements of that state or federal agency.

SECTION 3.2. Employee Time Sheet. If an employee's compensation is funded by any grant, the Superintendent shall ensure that the employee maintains a time sheet on which he or she records the time spent during the work day along with a description of the service he or she performed during that time.

SECTION 3.3. Signature. The Superintendent shall ensure that the time sheets contain the signatures of the employee that completed the time sheet, a school official, and the grant manager.

SECTION 4. Annual Audit by the Charter

SECTION 4.1. Annual Audit. Annually, the President of the Board shall ensure the engagement of a certified public accountant ("CPA") to have the financial and programmatic operations of RMA audited. RMA shall select and contract only with CPAs that are licensed by the Texas State Board of Public Accountancy and registered as a provider of public accounting services.

SECTION 4.2. Filing with TEA. The Superintendent shall ensure that the School timely files a copy of the annual audit report with the TEA division responsible for school financial audits. The report shall include a certificate of the Board which will include the original signatures of both the presiding officer and the secretary of the Board. The certificate shall indicate if the Board approved or disapproved the contents of the report along with the date of the Board's approval or disapproval. This approval or disapproval shall be supported in the Board's meeting minutes. The Superintendent shall ensure that if the Board disapproved the audit, it shall still be filed with TEA along with a statement identifying the reason(s) for Board disapproval.

SECTION 4.3. Disclosure of Interest. The Superintendent shall ensure that all persons with a substantial interest in a management company are separately disclosed in the annual audit.

SECTION 5. Annual Financial Statement

SECTION 5.1. Annual Financial Statement. The Superintendent shall prepare, or cause to be prepared, an annual financial statement for each fund subject to the authority of the Board during the fiscal year showing:

- a. the total receipts of the fund, itemized by source of revenue, including taxes, assessments, service charges, grants of state money, gifts, or other general sources from which funds are derived;
- b. the total disbursements of the fund, itemized by the nature of the expenditure; and
- c. the balance in the fund at the close of the fiscal year.

SECTION 5.2. Posting of Annual Financial Statement. The Superintendent or designee shall ensure that the annual financial statement is posted continuously on the school's Internet website.

SECTION 6. Annual Financial Management Report

The Superintendent shall ensure compliance with the reporting procedures TEA develops for charter holders to prepare and distribute the school's annual financial management report.

SECTION 7. Audit by the Commissioner

The School and its officers, employees and agents shall fully cooperate with an audit by the commissioner of education and will take all actions necessary to secure the cooperation of a management company.

SECTION 8. Attendance Accounting

SECTION 8.1. Compliance. The Superintendent shall ensure compliance with the TEA Student Attendance Accounting Handbook and all other laws and rules concerning charter school student attending accounting, reporting, and record keeping.

SECTION 8.2. Responsibility. The Superintendent, chief campus leaders, and teachers of RMA will be responsible to the Board and to the state to maintain accurate, current student attendance records.

SECTION 8.3. When Attendance is Taken. Attendance will be determined by the absences recorded in the second and fifth periods of the day unless permission has been obtained from the Texas Education agency for an alternate period to record absences. RMA will not change the established period in which absences are recorded during the school year.

SECTION 9. PEIMS Data Standard

SECTION 9.1. PEIMS. The Superintendent shall ensure that the School's fiscal accounting system is compatible with PEIMS data standards and conforms to Generally Accepted Accounting Principles.

SECTION 9.2. Account Code Structure. The Superintendent shall ensure that, with the exception of the codes that may be used at local option, RMA shall use the account code structure described in TEA's Special Supplement to the Financial Accountability System Resource Guide, Nonprofit Charter School of Accounts.

100.080 FEDERAL FISCAL COMPLIANCE

The Board adopts the following policy, which shall be effective on the date of adoption.

SECTION 1. Commitment to Compliance

Prior to expending federal grant funds, the Superintendent shall ensure that RMA consults the appropriate compliance standards. The Superintendent shall adopt and follow appropriate procedures to ensure that all grant funds are expended in accordance with applicable requirements, including where applicable, the Education Department General Administrative Regulations (EDGAR).

SECTION 2. Federal Grant Time and Effort

The Superintendent or designee shall develop and maintain an electronic record keeping system that can receive, store, and reproduce electronic records and signatures of electronic transactions in their original form. The records shall be retained in an accessible format for as long as legally required.

Section 2.1. Employee Time Sheet. If an employee's compensation is funded by any federal grant, the Superintendent shall ensure that the employee maintains a time sheet on which he or she records the time spent during the work day along with a description of the service he or she performed during that time.

Section 2.2. Signature. The Superintendent shall ensure that the time sheets contain the signatures of the employee who completed the time sheet, a school official, and the RMA grant manager.

Section 2.3. Substitute System for Time and Effort Reporting. Each school year, the Superintendent shall submit a management certification form by the deadlines required by TEA to qualify as a participant under the substitute system of semi-annual time and effort reporting for RMA employees. The Superintendent shall also ensure that any eligible employee participating in the substitute system of federal time and effort reporting completes a schedule and certification form at least semi-annually. The Superintendent shall ensure that the semi-annual certification form contains the signature of the employee and the employee's supervisor. The semi-annual certifications for each employee shall be maintained as part of the records of the School.

SECTION 3. Use of Federal Grant Funds for Procurement

Section 3.1. Compliance. When expending federal grant funds, the Superintendent or designee shall require compliance by employees, officers, and agents with all applicable federal and state procurement standards and policies. Violations of applicable laws or policies may lead to disciplinary consequences including and up to termination of employment or removal from any officer position, if applicable.

- a. Cost Principals. According to the new EDGAR (Education Department General Administrative Regulations), any expenditure of federal grant funds must be:
 - i. Allowable,
 - ii. Reasonable and Necessary; and
 - iii. Allocable,
- b. Costs of professional and consultant services, rendered by persons who are not employed by RMA, and members of a particular profession or possess a special skill, are allowable when reasonable and when certain factors are considered.
- c. Responsible Contractors. RMA must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Factors include contractor integrity, compliance with public policy, past performance, and financial and technical resources.
- d. Specific Procurement Standards with Federal Funds:
 - i. for expenses of \$3,000 or less (i.e., micro-purchases), purchases must be distributed equitably among qualified suppliers;
 - ii. for small purchases of less than \$150,000, price quotes from an adequate number of qualified sources;
 - iii. for construction, use procurement by sealed bids;
 - iv. when sealed bids are not appropriate (such as for when one or more source

- submits a fixed price or cost-reimbursement model), then use procurement by competitive proposals;
- v. for sole source purchasing, use noncompetitive proposals; and
- vi. for every procurement action in excess of \$150,000 a cost or price analysis must be performed before receiving bids or proposals.

Section 3.2. Shared Services. The Superintendent is encouraged to participate in group purchasing programs, shared services agreements, inter-local contracts and inter-entity agreements whenever possible to generate a cost savings for the School.

Section 3.3. Open and Free Competition. The Superintendent shall ensure that all procurement transactions are conducted in a manner that provides open and free competition. The Superintendent shall ensure that the procurement procedures do not contain features which unduly restrict competition.

Section 3.4. Conflicts of Interest: Standards of Conduct. The Superintendent shall ensure that no employee, officer, or agent of RMA, who has a real or apparent conflict of interest, participates in the selection, award, or administration of a contract supported by federal funds. Employees, officers, and agents may not solicit or accept favors, gratuities, or anything of monetary value from contractors or their agents. The Superintendent shall maintain written standards of conduct governing the performance of employees engaged in the award and administration of contracts. The written standards of conduct shall also address organizational conflicts of interest. The Superintendent shall disclose in writing any potential conflict of interest to the Board, to TEA, and to the federal awarding agency.

Section 3.5. Disclosures of Misconduct. The Superintendent shall ensure that any evidence of fraud, bribery or a gratuity violation is promptly reported to the Board, to TEA, and to the federal awarding agency. The Superintendent shall also report any such evidence to local law enforcement authorities.

Section 3.6. Small and Minority Firms, Women's Businesses. The Superintendent shall ensure that RMA takes all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

Section 3.7. Record Documentation. The Superintendent shall maintain records sufficient to detail the history of each procurement secured with federal funds. The records must include, but not be limited to, the rationale for the procurement method, the selection of the contract type, contractor selection or rejection, and the basis of the contract price.

Section 3.8. Mandated Contract Provisions. The Superintendent shall ensure that all legally mandated provisions are included in each procurement contract.

SECTION 4. Special Fiscal Requirements under Title I, Part A of NCLB

Section 4.1. Supplement not Supplant. The Superintendent shall ensure that Title I funds will be used to supplement, not supplant regular non-federal funds.

Section 4.2. Documentation. Documentation shall be maintained, or caused to be maintained, by the Superintendent. The documentation must clearly demonstrate the supplementary nature of federal funds.

Section 4.3. District Improvement Plan. The Superintendent shall ensure that Title I funds used shall be aligned to the campus improvement plan. There shall be no costs expended that are not directly related to the campus improvement plan.

- a. A comprehensive needs assessment shall be conducted that will inform the drafting of the district improvement plan. The district improvement plan shall be aligned to the needs assessment and only needs that can be met with current funding levels shall be addressed in the district improvement plan.
- b. New goals shall be added as new money is identified.
- c. The Superintendent shall ensure that a needs assessment and district improvement plan is conducted prior to any grant application.

Section 4.4. Comparability Testing. Unless exempt from Title I's comparability requirements, the Superintendent or designee shall ensure compliance with all applicable comparability requirements. To ensure proper use of the receipt of any Title I, Part A funding, RMA will strive to avoid diverting state and local resources away from its Title I, Part A campus(es) by:

- a. Implementing a School-wide salary schedule. The Superintendent shall recommend for Board approval a salary schedule that indicates salary comparability across all Title I and non-Title I campuses and positions. The School-wide salary schedule shall allow for fair and comparable compensation for each position based each employee's job duties, special assignments, education, certifications, and experience. The Superintendent shall administer the compensation plan in a manner consistent with the annual budget adopted by the Board;
- b. Ensuring equivalence among campuses in teachers, administrators, and other staff. The ratio of students to teachers, administrators, and other staff at each Title I campus shall be equivalent to the ratio of students to teachers, administrators and other staff at non-Title I campuses. Equivalence shall be determined by various reasonable and appropriate factors;
- c. Ensuring equivalence among campuses in the provision of curriculum materials and instructional supplies. Each Title I and non-Title I campus shall receive equivalent funding for curriculum and instructional materials. Equivalence shall be determined by various reasonable and appropriate factors; and
- d. Adjusting to Ensure Comparability. The Superintendent or designee shall conduct testing to measure comparability and maintain records documenting compliance. If any instances of noncompliance are identified, the Superintendent or designee shall promptly implement adjustments as needed to ensure comparability, seeking Board approval where necessary or appropriate.

SECTION 5. Special Fiscal Requirements under IDEA, Part B (Special Education)

The Superintendent shall ensure compliance with the specific requirements applicable to the receipt of special education funding including maintenance of effort, excess costs, supplemental use, and Coordinated Early Intervening Services.

SECTION 6. Charter Schools Program (CSP), NCLB Title V, Part B

Section 6.1. Compliance. If RMA receives CSP grants, the Superintendent shall ensure compliance with all statutes, regulations, and approved applications.

Section 6.2. Fiscal Control. The Superintendent shall directly administer or supervise the administration of any projects funding through CSP funds and shall use fiscal control and fund accounting procedures that ensure proper disbursement of, and accounting for, federal funds.

Section 6.3. Conflicts of Interest. Board members and employees shall avoid apparent and actual conflicts of interest. An individual is prohibited from participating in an administrative decision regarding a project funded through CSP funds if the decision is likely to benefit that person or an immediate family member and the person is a public official or has a family or business relationship with RMA. A person is prohibited from using his or her position for a purpose that is, or gives the appearance of being, motivated by a desire for a private or financial gain for that person or for others.

Section 6.4. Procurement. When using CSP funds to enter into a contract for equipment or services, the Superintendent or designee shall comply with the applicable federal procurement standards. No Board member, employee, officer, or agent of RMA may participate in the selection, award, or administration of any contract supported by federal funds if a real or apparent conflict of interest exists.

SECTION 7. National Child Nutrition Programs

SECTION 7.1. National School Breakfast Program Participation. If at least 10 percent of enrolled students are eligible for free or reduced-price breakfasts under the national school breakfast program, provided for by the Child Nutrition Act of 1966, RMA shall participate in the program and make the benefits of the program available to all eligible students.

Unless the Board has obtained a waiver from the Commissioner for the applicable school year, all students shall be provided a free breakfast if at least 80 percent or more of the students qualify for a free or reduced-price breakfast under the National School Breakfast Program.

The Superintendent shall ensure the School's compliance with all federal and state rules governing administration of the National School Breakfast Program.

SECTION 7.2. National School Lunch Program. The Superintendent shall ensure compliance with all federal and state rules governing the administration of the National School Lunch Program.

SECTION 7.3. Child Nutrition Program Expenditures. Revenues must be used for expenses that are necessary for School Nutrition Program operation and improvement. This includes, but is not limited to food, equipment, supplies, and program personnel. The School Nutrition Program account funds must not be used for expenditures that are not directly related to the School Nutrition Program operation and improvement. All financial transactions related to expenditures are subject to the procurement regulations outlined by the Texas Department of Agriculture.

An expenditure of any single item or service that exceeds \$5,000 must have preapproval from Texas Department of Agriculture for the cost to be allowable.

100.100. CASH MANAGEMENT & CREDIT CARD PROCEDURES

The Board adopts the following policy which shall be effective on the date of adoption.

School funds are public funds. Consequently, all expenditures of school funds, including cash expenditures, shall be documented and accounted for by daily receipts. As a general rule, cash will not be used to make purchases. School checks shall not be made payable to "Cash". The Superintendent shall ensure that appropriate "separation of duties" are complied with in the handling of all money transactions, including reconciliation.

SECTION 1. Accounting for Cash Transactions

SECTION 1.1. Documentation. 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 a check 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 teachers shall document from whom the money was received 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, certified, to the office of the Superintendent on a weekly basis.

SECTION 1.2. Depositing Cash. 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.

SECTION 1.3. Petty Cash Prohibited. The use of petty cash shall not be allowed.

SECTION 2. Checks

SECTION 2.1. RMA Checks. Any authorized checks drafted on RMA's bank account over \$50,000 shall have two authorized signers. The following RMA officers are authorized to sign checks from RMA's bank account on behalf of RMA: Superintendent, Chief Financial Officer, Board President. Each check must be completed in its entirety before it is signed by either party.

SECTION 2.2. Checks Received. Checks received shall be endorsed "for deposit only" and shall be deposited weekly.

SECTION 2.3. Check Requests. Services or products rendered, reimbursement requests with original receipts, or mileage reimbursements may receive payment with a check. A Travel Expense Form or a Reimbursement Request Form must be completed by the requestor and approved with a signature by the appropriate supervisor. The forms shall contain the name of the payee, the date of the request, the amount of the request, a brief description for the issuance of the check, and the funding source that it will be drawn from. The Form shall be entered into the district financial software for processing. Checks made payable to "Cash" are prohibited.

SECTION 2.4. Check Acceptance Policy. In the event a check submitted to RMA is returned for insufficient funds, or any other reason, RMA shall collect from the check maker the

amount originally due in addition to any fee amount assessed by the bank because of the returned check. Parents and employees should be provided notice of this policy.

SECTION 3. Paying Bills with State or Federal Grant Funds

Grant funds shall not be requested from TEA until the School is prepared to pay any outstanding balances within three days from when the funds are deposited in RMA's bank account. The Superintendent shall ensure that all bills, including payroll and related withholding taxes, shall be paid within three working days from when such funds are deposited.

SECTION 4. Bank Reconciliations

The Superintendent or designee is responsible for bank reconciliations a minimum of once a month. Each bank statement, assets, and liabilities shall be reconciled to both the checkbook and the general ledger.

SECTION 5. Credit Card Procedures

Only the following are authorized to use the RMA credit card: Superintendent, Chief Financial Officer, the Executive Director of Instructional Operations and the Director of Instructional Technology, Grants & Expansion. All authorized users of the RMA credit card assume the responsibilities pertaining to the use and reconciliation of the credit card. The credit card shall only be used for school business expenditures. It may not be used for personal purchases and/or cash transactions and shall be maintained by the highest level of security.

Each credit card transaction by any user must be accompanied by appropriate documentation such as original receipts documenting each transaction.

SECTION 6. Activity Funds

SECTION 6.1. Parent/Volunteer Groups. The Superintendent or designee shall develop procedures for parent and school volunteer groups to follow in the collection of funds. Such procedures should distinguish between funds the school is collecting and funds the parent group is collecting. See Texas Education Code §12.108 for allowable fees that may be collected by the School.

SECTION 6.2. Activity Expenditures. The following individual(s) is/are authorized to approve activity expenditures: Principal, Chief Financial Officer, Executive Director of Instructional Operations, Director of Instructional Technology and Superintendent.

100.110 ELECTRONIC SIGNATURES AND RECORD KEEPING

The Board adopts the following policy, which shall be effective on the date of adoption.

SECTION 1. Acceptance of Electronic Signatures

RMA wishes to promote effective and efficient use of electronic communications to conduct School business. An electronic signature shall have the full force and effect of a manual signature only if the electronic signature satisfies all of the following requirements:

SECTION 1.1. The individual affixing his or her electronic signature to a document, contract, data transmission, or report is otherwise authorized by the Board to represent RMA in legal transactions, to commit the resources of the School, or to make or affirm representations concerning operations of the School.

SECTION 1.2. The electronic signature identifies the individual signing the document by his or her name and title.

SECTION 1.3. The electronic signature and the document to which it is affixed cannot be altered once the electronic signature is affixed.

SECTION 1.4. The identity of the individual signing with an electronic signature is capable of being validated.

This policy does not require electronic signatures to be created or used for any particular business transactions for the charter school.

SECTION 2. Electronic Recordkeeping

The Superintendent or designee shall develop and maintain an electronic recordkeeping system that can receive, store, and reproduce electronic records and signatures of electronic transactions in their original form. The records shall be retained in an accessible format for as long as legally required.

100.120. ACCOUNTING FOR CAPITAL ASSETS

The Board adopts the following policy, which shall be effective on the date of adoption.

SECTION 1. Capital Assets

SECTION 1.1. Capital Asset. A capital asset for RMA is an asset that is:

- a. Tangible in nature;
- b. Has a life that exceeds one year;
- c. Is valued at \$5,000.00 per unit; and
- d. Is reasonably identified and controlled through a physical inventory system.

SECTION 1.2. Documentation. The Superintendent shall ensure the maintenance of accurate records of capital assets in accordance with applicable rules.

SECTION 1.3. Inventory. The Superintendent will ensure that a physical inventory of capital assets takes place once every two years in accordance with rules.

SECTION 1.4. Financial and Compliance Report. For purposes of the Financial and Compliance Report, the Superintendent shall ensure that the report includes:

- a. An exhibit in the financial and compliance report identifying all capital assets and the ownership interest of local, state, and federal parties; or
- b. A statement that all property acquired during the term of RMA, and all property presently held by RMA, may be considered public property.

100.140. INVESTMENT OF STATE FUNDS

The Board adopts the following policy, which shall be effective on the date of adoption.

SECTION 1. Investment of Funds

The Superintendent shall ensure that the School invests state funds in accordance with applicable state law and rules. The investment of state funds shall be made with judgment and care and not for speculation, but for investment, considering the probable safety of capital and the probable derived income.

SECTION 2. Investment Management Firm and/or Officer

The Board may contract with an investment management firm that is registered under the appropriate governmental entities to provide for the investment and management of the funds. Such a contract shall not exceed two years. If the Board determines to renew any such contract the board shall issue the appropriate order or resolution.

SECTION 3. Discrete Maintenance of Records

The Superintendent shall ensure that all investments will be maintained in a discrete, charter investment account, separate from any other accounts.

SECTION 4. Investments

The following investments have received approval by the Board for the one-year period from (None at this time).

100.160 PAYROLL

The Board adopts the following policy, which shall be effective on the date of adoption.

SECTION 1. Accurate & Timely Payroll

The Superintendent shall ensure that school employees are paid accurately and timely in accordance with applicable laws and rules.

SECTION 2. Paydays

The paydays for all employees shall be on the 15th and 30th of each month. When these days fall on a weekend or a holiday, RMA will pay on the business day prior.

SECTION 3. Withholding of Wages

The Superintendent shall ensure that the wages of school employees are not withheld except as expressly required or expressly permitted by applicable laws and rules.

100.180 PROPERTY

The Board adopts the following policy, which shall be effective on the date of adoption.

SECTION 1. Public Property Held in Trust

SECTION 1.1. Public Property. An interest in real estate or personal property acquired, improved, or maintained using state funds that were received by RMA on, or after, September 1, 2001, is public property for all purposes under state law.

SECTION 1.2. Public Property Held in Trust. Public property is held by RMA in trust for the benefit of enrolled students.

SECTION 2. Use of Public Property

SECTION 2.1. Allowable Use. The Superintendent shall ensure that public property shall only be used for a purpose for which a school district may use school district property and only to

implement a program that is described in the open-enrollment charter and is consistent with the Texas Education Code §12.102. RMA shall ensure that RMA employees, agents, contractors, and management companies do not use or apply public property for any purpose other than a program approved by the Superintendent.

SECTION 2.2. Exception to Allowable Use. Employees may use local telephone service, cellular phones, electronic mail, and Internet connections for incidental personal use under the following conditions:

- a. Such incidental personal use must not result in any direct cost paid with state funds. If this does happen, the Superintendent shall ensure that the employee which caused the direct cost to be incurred by RMA shall reimburse the School;
- b. Such incidental personal use shall not impede the functions of RMA;
- c. The use of public property for private commercial purposes is strictly prohibited; and
- d. Only incidental amounts of an employee's time for personal matters, comparable to reasonable coffee breaks during the day, are authorized under this section.

SECTION 2.3 Violations of Section 2.

Section 2.3.1 Employee Violations. RMA shall ensure that a violation of Section 2 of this policy by an employee of RMA shall have disciplinary consequences, which may include termination of employment.

SECTION 2.3.2. Contractor Violations. The Superintendent shall ensure that each contract between RMA and another party includes language stating the allowable use of public property and that a violation of the allowable use may lead to termination of a contract. If a contract is terminated, based on a violation of Section 2 of this policy, RMA will compensate the entity for services performed as required by law.

SECTION 2.4 Joint Use of Real Property. The Board President shall ensure that the Board takes a separate vote to approve any joint use of real property for charter and non-charter activities. In the meeting minutes of the vote approving the joint use, the Board Secretary shall ensure that the minutes set forth the methodology used to allocate shared costs and the percentage allocation basis between charter and non-charter activities.

SECTION 3. Lease of RMA Facilities

RMA may lease its facilities to various organizations such as those that are educational, religious, or civic in nature. However, the availability of facilities for lease by outside entities will depend on RMA's own needs and convenience.

100.200 PURCHASING & CONTRACTING

The Board adopts the following policy, which shall be effective on the date of adoption.

SECTION 1. Public Works Contracts – Chapter 44 of the Education Code

SECTION 1.1. 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 1.2. Bidding Threshold. This policy applies when an expenditure of more than \$50,000.00 in public funds is required for construction services.

SECTION 1.3. 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 1.4. 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 1.5. 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 1.6. Sealed Bids. The Superintendent shall ensure that all bids, proposals or qualifications are sealed.

SECTION 1.7. 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 1.8. 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.

SECTION 2. Professional Services

SECTION 2.1. Applicable Law. The Superintendent shall ensure that professional service providers are selected in accordance with the applicable law.

SECTION 3. Workers Compensation

Section 3.1. Applicable Law. RMA shall ensure that any workers compensation benefits for employees are selected and provided in accordance with applicable law.

SECTION 4. Cooperative Purchasing Programs and Interlocal Contracts

To the extent that the RMA charter contract permits RMA to enter into a cooperative purchasing program and an interlocal contract, the Superintendent shall ensure full compliance with all applicable law and rules.

SECTION 5. Other Purchasing and Contracting

Section 5.1 Appropriate Value. In awarding contracts for goods and services that are not governed by Sections 1, 2, 3 or 4 of this policy, the Superintendent shall ensure that RMA receives appropriate value for the expenditure.

Section 5.2. Competitive Process Threshold. In an expenditure of school funds for a contract awarded under Section 4 will exceed \$50,000.00, then the Superintendent may engage a competitive process before selecting a person or entity to which to make the award.

Section 5.3. Purchase Order Required. The Superintendent shall establish procedures identifying a purchase order process as the method for purchasing or expending funds. Approval for a purchase or expenditure of funds must be obtained by certain Central Office Staff and Principals before the purchase or expenditure of funds is made. See approval amounts below:

- a. Superintendent: Up to \$49,999.99;
- b. Chief Financial Officer: Up to \$24,999.99;
- b. Executive Director of Instructional Operations: Up to \$24,999.99;
- c. Executive Director of Instructional Technology, Grants & Expansion: Up to \$24,999.99; and
- d. Principal: Up to \$999.99.

SECTION 6. Board Approval Required

For any contract or purchase made pursuant to this policy, the Board shall approve all contracts valued above \$49,999.99. The \$49,999.99 limit is clarified as, any one-time purchase or contract totaling that amount or above. The Superintendent does not have authority to bind the Board or the School to any contract for goods and services valued above \$49,999.99. Any contract or purchase valued above this amount that is not approved by the Board is void and ineffective.

SECTION 7. State Travel Management Program

Board members, officers, and employees, engaged in travel on official business of RMA, shall utilize the Texas Comptroller's State Travel Management Program to the extent it provides a better value.



TCSA Model Board Policy Series

Module 600 – Human Resources

Richard Milburn Academy

13003 Jones Maltsberger Rd.

San Antonio, Texas 78123

830-557-6181

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Board Policy Module 600: *Human Resources*

The Human Resources Module 600, is the sixth and final module of the Model Board Policies. The material included in this module provides a comprehensive summary of statutes and regulations that apply to charter schools, as well as specific model board policies designed to comply with these legal requirements. Other policy modules currently available include:

Board Policy Module 100: Financial Operations

Board Policy Module 200: Charter School Governance & Organization Module

Board Policy Module 300: General School Operation

Board Policy Module 400: Students

Board Policy Module 500: Open Government

Board Policy Module 600: Human Resources

Legal Abbreviations Used In the TCSA Model Board Policy Series

Atty. Gen. Op.	Attorney General Opinion
C.F.R.	Code of Federal Regulation
Tex. Admin. Code	Texas Administrative Code
Tex. Educ. Code	Texas Education Code
Tex. Gov't Code	Texas Government Code
Tex. Labor Code	Texas Labor Code
Tex. Loc. Gov't Code	Texas Local Government Code
U.S.C.A.	United States Code Annotated

600.020. EQUAL OPPORTUNITY

The governing body (“Board”) of RICHARD MILBURN ACADEMY (also referred to as “RMA” or the “School”) adopts the following policy, which shall be effective on the date of adoption.

SECTION 1. Anti-Discrimination Policy

RMA is an equal opportunity employer and makes employment decisions based on merit and in accordance with applicable state and federal law. RMA policy prohibits unlawful discrimination on the basis of race, color, national origin, religion, sex or gender, disability, military or veteran status, genetic information, or age in its employment practices as required by 42 U.S.C. 1981; Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e *et seq.*; 20 U.S.C. 1681 *et seq.* (Title IX); the Age Discrimination in Employment Act of 1967, as amended (“ADA”), 42 U.S.C. 12111 *et seq.*; the Genetic Information Nondiscrimination Act of 2008 (“GINA”); Texas Human Resource Code 121.003(f); Texas Labor Code Ch. 21 (Texas Commission on Human Rights Act); Texas Labor Code Ch. 21, Subch. H (genetic information); and other legally-protected classification or status protected by federal or state law. Complaints regarding equal employment opportunity may be directed to Human Resources

RMA Employees shall not engage in discrimination or harassment motivated by race, color, religion, sex, disability, military service, or age directed toward other RMA employees or students. A substantiated charge of discrimination and/or harassment shall result in disciplinary

action. Retaliation against employees or students who report discrimination and/or harassment is strictly prohibited. Acts of retaliation may result in disciplinary action up to and including termination.

SECTION 2. At-Will Employment

RMA is an at will employer. Employees are terminable at-will by the school. Similarly, employees may resign their positions without penalty. No individual board member or employee has the authority to alter any employee's at-will status, or guarantee an employee's employment for a specific period of time, unless it is approved by the board of directors, in writing, and signed by both the employee and the chair of the board of directors.

SECTION 3. Investigation

Any allegations of discrimination or harassment of students or employees shall be investigated and addressed.

SECTION 4. Coordinator

RMA designates the following person to coordinate its efforts to comply with this anti-discrimination policy:

NAME: Armard Anderson

POSITION: Superintendent

ADDRESS: 13003 Jones Maltsberger Rd., San Antonio, Texas 78247

TELEPHONE: 830-557-6181

SECTION 5. Complaints

The Coordinator shall be responsible for the investigation of discrimination complaints filed by employees and citizens. Complaints regarding any type of alleged discrimination shall be made in accordance with the RMA complaint policy in SECTION 300.120.

600.040 DRUG- FREE WORKPLACE

The Board adopts the following policy, which shall be effective on the date of adoption.

SECTION 1. Drug- Free Policy

RMA is committed to maintaining a drug-free workplace and shall make a good faith effort to maintain such an environment. The unlawful manufacture, distribution, possession, or use of a controlled substance in the workplace or at school-related events during or outside of usual working hours is strictly prohibited. Examples include but are not limited to:

- Any controlled substance or dangerous drug as defined by law, including but not limited to marijuana, any narcotic drug, hallucinogen, stimulant, depressant, amphetamine, or barbiturate;
- Alcohol or any alcoholic beverages;
- Any abusable glue, aerosol paint, or any other chemical substance for inhalation; and
- Any other intoxicant, or mood-changing, mind-altering, or behavior-altering drugs.

An employee need not be legally intoxicated to be considered "under the influence" of a controlled substance.

In addition to any consequences established by law, violation of this policy may lead to

disciplinary consequences up to and including termination.

*Note-An employee who manufactures, possesses, or dispenses a substance listed above as part of the employee's job responsibilities, or who uses a drug authorized by a licensed physician prescribed for the employee's personal use shall not be considered to have violated this policy.

SECTION 2. Drug- Free Awareness Program

RMA is committed to maintaining an alcohol-and drug-free environment and will not tolerate the use of alcohol and illegal drugs in the workplace and at school-related or school-sanctioned activities on or off school property. Employees who use or are under the influence of alcohol or illegal drugs as defined by the Texas Controlled Substances Act during working hours may be immediately terminated.

RMA shall establish a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace, the school policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance abuse programs, and the penalties that may be imposed upon employees for drug abuse violations. 41 U.S.C. 702(a)(1)(B); 28 TAC 169.2

SECTION 3. Notification.

Employees shall notify the Superintendent or designee of any arrest, charge, conviction, or other adjudication for an alcohol or drug-related offense that occurred within five calendar days of such as arrest, charge, conviction or other adjudication. Within 10 days of such notification, or otherwise being notified, the Superintendent or designee shall notify applicable relevant federal granting agencies of the conviction.

Within 30 calendar days of receiving notice from an employee of a conviction for any drug statute violation occurring in the workplace, RMA shall either take appropriate personnel action against the employee, up to and including termination of employment, or require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health agency, law enforcement agency, or other appropriate agency. 41 U.S.C. 703

[This notice complies with notice requirements imposed by the federal Drug-Free Workplace Act (41 U.S.C. 702) and notice requirements imposed by the Texas Workers' Compensation Commission rules at 28 TAC Chapters 102-180]

SECTION 4. Alcohol & Drug Testing

SECTION 4.1. Establishment of Testing Program & Procedures.

In an effort to promote safety and help prevent accidents resulting from alcohol and/or drug misuse, the Superintendent or designee may establish an alcohol and drug and controlled substance testing program and procedures for the following:

- Employees who are drivers of charter school-owned or rented vehicles;
- Employees who perform safety-sensitive functions;
- Applicants for positions in the above-referenced categories; and
- Any employee when there is reasonable suspicion of use of alcohol, drug, or controlled substances in the workplace.

The Superintendent may designate a charter school official who shall be responsible for ensuring that information is provided to all employees regarding prohibited driver conduct, alcohol and controlled substances tests, and the consequences that follow positive test results.

SECTION 4.2. Reasonable Suspicion Testing.

RMA may ask an employee to submit to a drug or alcohol test whenever there may be reason to believe that the employee may be under the influence of drugs or alcohol at the work-place in violation of this Drug-Free Workplace policy. Only supervisors trained in accordance with federal regulations may, based upon reasonable suspicion, remove an employee and require testing for alcohol and/or controlled substances. The determination of reasonable suspicion shall be based on specific observations of evidence of drugs or alcohol on or about the employee's person or in the employee's vicinity, unusual, bizarre or erratic conduct that suggests the employee is impaired by, or under the influence of, drugs or alcohol; or an on-the-job accident or injury under circumstances that suggest the possible use or influence of drugs or alcohol in the injury. Such observations must take place just preceding, during, or just after the period of the workday that the employee is on duty.

The observations may include indication of the chronic and withdrawal effects of controlled substances. Within 24 hours of the observed behavior, the supervisor shall provide a signed, written record documenting the observations leading to a controlled substance reasonable suspicion test.

SECTION 4.3. Required Procedures.

Compliance with these requirements and prohibitions is mandatory and is a condition of employment. The procedures established under SECTION 4.1 shall require the termination of an employee's employment for refusal to submit to a required test for alcohol or controlled substances.

SECTION 4.4. Supervisor Training.

The Superintendent or designee shall ensure that supervisors are properly trained in accordance with the terms of the applicable law and this policy.

SECTION 5 Tobacco and E-Cigarettes.

Smoking or using tobacco products (including e-cigarettes) are prohibited within 500 feet of all district-owned property and at school-related or school-sanctioned activities, on or off campus.

600.060. HIRING PRACTICES & CRIMINAL BACKGROUND CHECKS

The Board adopts the following policy, which shall be effective on the date of adoption.

SECTION 1. New Hires

SECTION 1.1. Compliance.

The Superintendent or designee shall ensure compliance with applicable laws and regulations regarding hiring practices of new employees.

SECTION 1.2. Posting Job Vacancies.

The Superintendent or designee shall ensure that job vacancies are posted with ample time and in various venues so that a broad pool of potentially strong applicants may apply for available positions. The Superintendent reserves the right to deviate from this process as needed in the case of emergency, mid-year and/or internal hiring.

SECTION 2. Criminal Background Checks

Criminal history records of prospective volunteers and applicants for employment shall be obtained from a law enforcement or criminal justice agency pursuant to Chapter 22 of the Texas Education Code and reviewed prior to employment or the commencement of volunteer service. Pursuant to this legal authority, criminal history checks of employees (or volunteers whose duties are performed where students are regularly present) may be obtained at any time during employment or volunteer services.

Information collected on an individual to comply with the requirements listed above is confidential and may not be released except as authorized by law or with the consent of the person who is the subject of the information.

The Superintendent or designee shall ensure compliance with applicable laws and regulations regarding criminal background checks. Upon notification that an employee or prospective employee has engaged in an offense which legally prohibits that individual from employment at an open-enrollment charter school, the Superintendent or designee shall terminate, or not hire as applicable, that individual.

SECTION 3. SBEC Reporting Requirements

SECTION 3.1 Principal Reporting Requirements.

The principal at all RMA campuses must notify the Superintendent of RMA no later than 7 business days of:

- Learning an educator's termination of employment or resignation following an alleged incident of misconduct, including an improper relationship with a student; or
- Learning about an educator's criminal record by means other than the criminal history clearinghouse.

SECTION 3.2. Superintendent Reporting Requirements.

The Superintendent, or designee, shall ensure compliance with reporting laws and regulations regarding employee termination and background checks.

If the Superintendent, or designee, learns of criminal history outside of the clearinghouse background check, the Superintendent, or designee, must notify SBEC within 7 business days.

Additionally, if an educator is terminated for or resigned due to inappropriate behavior, including being involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor, the Superintendent, or designee, shall notify SBEC within 7 business days.

If the Superintendent, or designee, receives a report from a principal at any RMA campus, the Superintendent, or designee, must report to SBEC within 7 business days.

SECTION 3.3. Written Report.

A report to SBEC must be in writing and should include the following:

- Name of employee
- State certification status
- Description of incident or description of criminal history
- Disciplinary steps taken

SECTION 4. Improper Relationships with Students

It is the policy of RMA that all employees maintain a professional relationship and exhibit a professional demeanor in their interactions with students. Employees shall not form personally intimate or romantic relationships with students, regardless of whether the student is 18 years old. Employees found to have engaged in an improper or inappropriate relationship with a student are subject to immediate disciplinary action, including termination.

SECTION 4.1. Electronic Communication.

In order to prevent improper relationships with students, RMA adopts the following:

- Text messages and email communications are prohibited between employees and students, unless through a district approved communication channel including but not limited to school email, instructional technology, and RingCentral.
- Employees may not be friends or connect with students on any social media platform such as Facebook, Twitter, Snapchat, Instagram and others. Also, employees are prohibited from engaging with students through electronic dating applications, such as Tinder.

SECTION 4.2. Personal Phone Numbers and Emails.

Employees at RMA are not required to provide personal emails or personal phone numbers to students, parents, or families of students.

Employees may elect not to disclose their personal telephone number or e-mail address to students.

SECTION 4.3. Reporting Inappropriate Behavior.

Employees at RMA must report any behavior that is observed at school or at any school-related or school-sponsored activity that might violate this policy. Additionally, if an employee receives an inappropriate communication from a student, the employee must immediately report the incident to the Principal. Reports may be submitted directly to the Principal via email or verbally in person.

A report should include:

- Name of the employee involved;
- Name of the student involved;
- Location of incident; and
- Description of incident.

If possible, a report should include any copies of communication between the employee and the student.

Parent Notification

RMA will notify a parent or guardian of a student when an alleged incident of educator misconduct involving an inappropriate relationship with a student as soon as feasibly possible after learning of the alleged incident, but no later than 24 hours.

Following an investigation into an incident of alleged misconduct involving an inappropriate relationship with a student, RMA will notify the student(s) parent or guardian as to whether:

- The educator was terminated following the investigation or if the educator resigned before the completion of the investigation; and
- A report was submitted to the SBEC for the alleged misconduct.

600.080. COMPENSATION

The Board adopts the following policy, which shall be effective on the date of adoption.

SECTION 1. Fair Labor Standards Act (FLSA) Compliance

SECTION 1.1. Designation of Work Week.

RMA has a standard work week of forty (40) hours per week. Employees' standard work schedule is 8 A.M. Monday through 5 P.M. Friday. The Board authorizes the Superintendent or designee to designate different work schedules based on campus schedules and for specific school personnel. Scheduled hours for employees may vary from department to department.

The workweek, for FLSA purposes, is defined as Sunday at 12:00 a.m. to Saturday at 11:59 p.m.

SECTION 1.2. Classification of Employees.

RMA will comply with FLSA regulations when classifying "exempt" and "nonexempt" positions.

Section 13(a)(1) of the FLSA provides an exemption from both minimum wage and overtime pay for employees employed as bona fide executive, administrative, professional and outside sales employees. Section 13(a)(1) and Section 13(a)(17) also exempt certain computer employees. To qualify for exemption, employees generally must meet certain tests regarding their job duties and be paid on a salary basis at not less than \$684 per work week. Job titles do not determine exempt status. In order for an exemption to apply, an employee's specific job duties and salary must meet all the requirements of FLSA regulations.

SECTION 1.3. Permission Required to Work Overtime.

Nonexempt employees may not work more than 40 hours in any work week except with prior written approval from their supervisor.

SECTION 2. Compensation Plans for School Employees

The Superintendent or designee shall recommend for Board approval compensation plans for all categories of charter school employees including salary schedules, stipends, benefits, incentives or other components determined appropriate. The Superintendent or designee shall administer the compensation plan in a manner consistent with the annual budget adopted by the Board.

Employees are paid in accordance with Board-approved administrative guidelines and a pay structure established for each position. Employee compensation plans are reviewed by the Board each year and adjusted as needed.

SECTION 3. Wage Overpayment / Underpayment

RMA strives to 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. In the unlikely event that there is an error in the amount of pay, the employee shall promptly bring the discrepancy to the attention of his or her supervisor so that corrections can be made as quickly as possible. If the employee has been paid in excess of what he or she has earned, the employee shall return the overpayment to RMA as soon as possible. No employee is entitled to retain any pay in excess of the amount he or she has earned. If a wage overpayment occurs, the overpayment will be regarded as an advance of future wages payable and will be deducted in whole or in part from the next available paycheck(s) until the overpaid amount has been fully repaid. Each employee will be expected to sign a wage deduction authorization agreement authorizing such a deduction either soon after employed with RMA or as soon as practicable. Such authorization agreement is valid for the duration of the employment relationship.

SECTION 4. Final Pay

RMA will comply with the Texas Payday Law that regulates the timing of the final paycheck. If an employee is laid off, discharged, fired or otherwise involuntarily separated from employment, the final pay is due within six (6) calendar days of discharge. If the employee quits, resigns, retires or otherwise leaves employment voluntarily, the final pay is due on the next regularly scheduled payday following the effective date of resignation.

SECTION 5. Expense Reimbursement

The Superintendent or designee shall designate allowable expenses for reimbursement when employees incur expenses that are pre-approved and related to their work assignments. Employees shall be required to submit accurate documentation of the expenses for which reimbursement is sought. The School will follow the travel reimbursement guidelines under the General Services Administration. Employee reimbursement request should be submitted to supervisors within 3 days of return of travel or date of purchase. Failure to submit requests in a timely manner could result in forfeiture of reimbursement. See Employee Handbook for more details.

600.100. TRAINING: CAMPUS ADMINISTRATIVE OFFICERS & BUSINESS MANAGERS

The Board adopts the following policy, which shall be effective on the date of adoption.

SECTION 1: Documenting Compliance

Each campus administrative officer and business manager shall comply with and keep accurate records concerning his or her compliance with the commissioner of education rules governing training requirements.

SECTION 2: Staff Development

The Superintendent will adopt a policy to provide annual training on suicide prevention for all new staff, and a schedule for returning staff to renew their training in compliance with rules adopted by TEA.

Staff development activities are organized to meet the needs of RMA employees. Staff development for instructional personnel is predominantly campus-based, related to achieving campus performance objectives. Staff development for non-instructional personnel is designed to meet specific licensing requirements and continued employee skill development.

Individuals holding renewable educator certification are responsible for obtaining the required training hours and maintaining appropriate documentation.

600.120. IMMUNITIES

The Board adopts the following policy, which shall be effective on the date of adoption.

SECTION 1. Exhaustion of Administrative Claims

Prior to filing a lawsuit, potential claimants shall exhaust administrative remedies in accordance with state law and/or federal regulations. Administrative remedies must be pursued through the Board's grievance process set forth in Board Policy 300.120.

SECTION 2. Written Notice of Legal Claims

Written notice of a potential legal claim against RMA shall be provided in accordance with state law and shall be mailed or hand-delivered to the employee's attention at the charter school's administrative office at the following address: 13003 Jones Maltsberger Rd., San Antonio, Texas 78247

600.140. RETIREMENT AND HEALTH BENEFITS

The Board adopts the following policy, which shall be effective on the date of adoption.

SECTION 1. Compliance

The Superintendent shall administer this policy in compliance with all applicable laws and shall ensure that school records pertaining to each employee's retirement and health benefits are current and accurate.

RMA offers a comprehensive health and insurance program to all eligible employees as well as their eligible dependents. Employees must elect coverage and make changes to their health, dental, and vision plans once a year, during the annual enrollment period, unless the employee has a qualifying life event.

SECTION 2. Health Benefits

RMA elects to provide health benefits through a private carrier. All health claims and coverage decisions are final as determined by the Board's selected carrier.

SECTION 3. COBRA Notification

The Superintendent or designee shall notify employees of their potential rights under COBRA upon separation from employment with the school, whether for voluntary or involuntary reasons.

SECTION 4. Local Benefits

RMA offers the following additional employment benefits for its employees:

- Dental
- Vision
- Short Term Disability
- Long Term Disability

- GAP
- Lifetime Insurance
- Cyber Security
- Flexible Spending Account
- Emergency Transportation
- Auto & Home
- Critical Illness
- Accident
- Voluntary Life

SECTION 5. Workers Compensation Benefits

It is the policy of RMA to provide workers' compensation insurance. The Superintendent or designee shall notify employees of its coverage decisions in accordance with state law. Employees will be notified in writing upon hiring and notices will be posted at all worksites.

SECTION 6. Teacher Retirement System

SECTION 6.1. TRS Eligibility.

RMA participates in the Teacher Retirement System (TRS). An employee is eligible for membership in TRS when the employee has:

Regular employment with a single public, state-supported education institution in Texas that is expected to last for a period of 4 ½ months or more;

For one-half or more of the full-time workload; and

With compensation paid at a rate comparable to the rate of compensation for other persons employed in similar positions.

An employee at RMA is considered to meet these requirements if the employee's customary employment is for 20 hours or more each week at a single employer and for 4 ½ months or more in one school year.

SECTION 6.2 Loss of TRS Eligibility.

An employee at RMA is no longer eligible to receive retirement annuity from TRS if the person is convicted of a qualifying felony against a student. A qualifying felony includes the continuous sexual abuse of a young child or children, an improper relationship between an educator and student, sexual assault, or aggravated sexual assault.

600.160. TEACHER CREDENTIALS & QUALIFICATIONS

The Board adopts the following policy, which shall be effective on the date of adoption.

SECTION 1. Compliance.

The Superintendent shall ensure that each teacher is properly credentialed and qualified as required by state and federal law.

SECTION 2. Local Requirements for Teaching Credentials and Qualifications

In addition to the federal and state requirements, the Board directs the Superintendent to make a good faith effort to hire teachers with the following credentials and qualifications:

- Teachers: State certification and baccalaureate degree appropriate for the subject areas being taught by the teacher.
- Associate Teachers: Highly qualified status in accordance with the No Child Left Behind Paraprofessional Highly Qualified Requirements:
 - Complete at least two years of study at an institution of higher education (defined as completion of 48 semester hours or equivalent trimester hours) of college coursework or an applicable number of semester hours as defined by the institution of higher education attended, whichever is less;
 - Possess an associate’s (or higher) degree;
 - Meet a rigorous standard of quality and can demonstrate, through a formal state or local academic assessment –
 - Knowledge of and the ability to assist in instructing reading, writing, and mathematics; or
 - Knowledge of and the ability to assist in instructing reading readiness, writing readiness, and mathematics readiness, as appropriate.

600. 170. PERFORMANCE EVALUATION

The Board adopts the following policy, which shall be effective on the date of adoption.

SECTION 1. Employee Evaluations

Evaluation of an employee’s job performance should be a continual process that focuses on improvement. Performance evaluation is based on an employee’s assigned job duties and other job- related criteria. All employees will participate in the evaluation process with their assigned supervisor at least annually. Supervisors will use a District-approved evaluation system to evaluate employees.

The Board of Directors will formally evaluate the Superintendent at least annually.

600. 180. EMPLOYEE LEAVES AND ABSENCES

The Board adopts the following policy, which shall be effective on the date of adoption.

SECTION 1. Definition

For purposes of this policy, “instructional staff” includes full time employees who work as campus principals, classroom teachers, associate teachers, teacher aides, counselors, and providers of special education services. The board at its discretion may modify this listing of employees as appropriate for the staffing plan and position titles.

SECTION 2. Administration and Compliance

The Superintendent shall administer this policy in compliance with all applicable laws and shall ensure that school records pertaining to each employee’s leaves and absences are current and accurate.

SECTION 3. Family Medical Leave

RMA follows the guidelines set forth by the United States Department of Labor, Wage and Hour Division regarding the Family Medical Leave Act. RMA. The FMLA entitles eligible employees who work for covered employers to take unpaid, job-protected leave in a defined 12-month period. RMA defines this 12- month period as measured forward from the date of your first

FMLA leave usage. The Family and Medical Leave Act (FMLA) is a federal law that provides eligible employees (as that term is defined in the FMLA) of covered employers with unpaid, job-protected leave for specified family and medical reasons.

Through December 31, 2020, RMA also will follow the FMLA amendments which were adopted March 27, 2020 in the Families First Coronavirus Response Act (FFCRA).

Employees are encouraged to review the FMLA and FFCRA posters which are posted at the employee's worksite, or to contact Human Resources concerning questions about leave under either the FMLA or the FFCRA FMLA amendments.

SECTION 3.1. General Guidance.

RMA will comply with all regulations of the Family and Medical Leave Act set forth by the United States Department of Labor Wage and Hour Division determined as the 12-month period measured forward from the date an employee's first FMLA period begins. See: <https://www.dol.gov/whd/fmla>.

Basic Leave Entitlement. FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, child, or parent, who has a qualifying serious health condition; or
- For a qualifying serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements. Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

Eligibility Requirements. Employees are eligible if they have worked for a covered employer for at least one year and have at least 1,250 hours over the previous 12 months.

SECTION 3.2. Concurrent Use of Leave.

It is the policy of RMA for an employee's available paid leave to run concurrently with FMLA and EFMLA leave.

SECTION 4. Local Leaves and Absences

SECTION 4.1. Local Personal Leave.

Each employee is entitled to up to seven (7) days of paid personal leave per year. Personal leave may be used for illness, illness of an employee's family member, personal and family medical appointments, and other personal reasons as determined by the employee. Personal leave does not accumulate.

Use of Local Personal Leave must be pre-approved by the employee's supervisor.

SECTION 4.2. Other Leave.

The charter school offers the following additional types of leave for its employees:

Bereavement

- In the unfortunate event of a death in immediate family, a paid leave of absence of up to 3 days will be granted (up to 5 if airline travel is required). For the purpose of this policy, an “family immediate 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
- RMA will provide up to 2 days of paid bereavement in the event of a death in extended family. 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

Jury Duty

RMA will provide paid leave for Jury Duty up to 10 days. The employee will be required to submit the actual court work excuse from the date of service. Notes: this does not include summonses for personal court appearances.

Military Leave

RMA is committed to protecting the employment rights of employees serving in the uniformed services who must be absent due to military leave. RMA will comply with applicable state and federal laws regarding an employee’s absence due to service in the uniformed services.

SECTION 4.3. State Sick/Personal Days.

RMA does not recognize or participate in the state sick or personal leave program. State sick or personal days do not have any role in the RMA leave program.

SECTION 4.4. 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 received two weeks vacation per year in addition to seven (7) 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.

SECTION 5. Extended Absences from Duty

SECTION 5.1. Abandoning Work.

An employee who misses three consecutive days of work without directly notifying the employee’s supervisor is considered to have abandoned the employee’s position and will be terminated from employment unless extenuating circumstances exist as determined by the Superintendent or designee.

SECTION 5.2. Returning to Work from Extended Leave.

SECTION 5.2.1. Reinstatement.

The reinstatement of an employee returning from extended leave such as family medical leave, military leave, or workers' compensation leave is a high priority for RMA.

Reinstatement to an equivalent position will be determined on a case-by-case basis by the Superintendent or designee based on the following factors relating to the best interests of the school and its students:

- the applicable laws, policies, and practices governing the employee's absence from duty;
- for instructional positions, the time of year, the students' academic and behavior progress, the proximity of school and/or student holidays, the proximity of student testing, and additional similar factors relating to the academic and behavioral success of the students;
- whether the employee is a key employee;
- the school's legal obligations to other employees;
- the employee's ability to perform the essential functions of the job with or without reasonable accommodation;
- the impact of reinstatement on the academic, fiscal, or other operations of the school.

SECTION 5.3. Pay Increases.

Employees returning to their prior employment positions from extended leave such as family medical leave or workers' compensation leave are entitled to any cost of living increases that were awarded during the employee's absence from duty. Unless legally required otherwise, returning employees will not be entitled to any pay increases that were awarded based on seniority, length of service or work performance.

600. 200. COMPLAINTS BY SCHOOL EMPLOYEES

The Board adopts the following policy, which shall be effective on the date of adoption.

SECTION 1. Process for Employee Complaints

Employees who have a complaint about the terms or conditions of their work or employment are encouraged to resolve their concerns informally with their co-workers and/or supervisors at the lowest level possible. If the employee is not satisfied with the outcome of the informal resolution, then the employee may file a formal complaint in accordance with the grievance process set forth in Board Policy SECTION 300.120.

SECTION 2. Exception for Certain Complaints

All formal complaints by charter employees must be pursued in accordance with the process set forth in Board Policy 300.120 unless the complaint alleges sexual harassment, or unlawful discrimination (based on race, gender, disability, religion, age or national origin) by the employee's supervisor. Under these circumstances, the employee shall present his or her Level 1 complaint to the school's Superintendent or designee who will designate another supervisory level employee to hear and respond to the Level 1 grievance. If the Superintendent or designee does not reach a decision that is satisfactory to the employee, then the employee may appeal the decision to Levels 2 and 3 as delineated in Board Policy SECTION 300.120