



# TPCSA Model Board Policy Series

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## Module 5 – *Fiscal Management*

### **Richard Milburn Academy**

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## **PG-5.001: Authority Over Fiscal Matters**

### **Sec. 1. Purpose of Policy.**

Through this policy, the Board of Directors (hereafter, the “Board”) of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, RMA) shall address the legal requirements, as applicable, promulgated at:

Texas Business Organizations Code (“Tex. Bus. Org. Code”) Sections 3.101, 22.201, 22.221 and 22.235;

Texas Education Code (“Tex. Ed. Code”) Sections 12.111(a)(16), 12.115(a)(2) and 12.121;

Texas Administrative Code, Title 19 (“19 TAC”), §§ 100.1033 and 100.1101;

Code of Federal Regulations, Title 2 (“2 CFR”), § 200.303;

*Standards for Internal Control in the Federal Government* (September 2014) promulgated by the Comptroller General of the United States;

*Internal Control – Integrated Framework* (2013 Update) issued by Committee of Sponsoring Organizations of the Treadway Commission;

*Government Auditing Standards* (2018 Revision) promulgated by the U.S. Government Accountability Office; and

Financial Accountability System Resource Guide.

### **Sec. 2. Applicability.**

This policy shall act as a keystone fiscal policy and shall apply to all other Board policies or administrative procedures. In the event of any conflict with other Board policy or administrative procedure, the requirements set forth in this policy shall prevail and govern. Accordingly, Board policies should include an appropriate reference to this policy.

### **Sec. 3. Final Authority.<sup>1</sup>**

Sec. 3.1. Absent a specific delegation of a power or duty (as approved by the commissioner of education, where applicable), the Board may not delegate, and thus retains, functioning as a body corporate, final authority to exercise the following powers and duties:

- (a) Adopt and amend policy;
- (b) Adopt and amend the budget;
- (c) Approve amendments to RMA’s charter with TEA;
- (d) Approve the use of property;<sup>2</sup>
- (e) Approve the purchase, lease or sale of real property;<sup>3</sup>

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<sup>1</sup> Tex. Bus. Org. Code §§ 3.101 and 22.201; Tex. Ed. Code §§ 12.111(a)(16) and 12.121; 19 TAC §§ 100.1033(b)(14)(C)(ii) -(iv) and 100.1101(a)/(d)

<sup>2</sup> At 19 TAC § 100.1001(6), certain economic and financial resources, such as cash, bank accounts, loans and other such items, are defined as personal property. At 19 TAC § 100.1063(a), personal property is public property. Consequently, the use of public property, such as cash, bank accounts, and loans, are subject to the Board’s final authority.

<sup>3</sup> Tex. Ed. Code § 12.106(f)(4). 19 TAC § 100.1101(b), (c) requires that the Board of a Richard Milburn Academy/Texas, Inc. maintain the primary responsibility for implementing the public Richard Milburn Academy program authorized by the open-enrollment charter and ensuring the performance of the students enrolled in its Richard Milburn Academics in accordance with the Tex. Ed. Code. The rule further provides, under (b)(1), that “An open-enrollment charter grants to the governing body of a Richard Milburn Academy/Texas, Inc. the authority to operate a Richard Milburn Academy” and, under (b)(2), that, “Except as provided by this section, the governing



- (f) Approve the annual financial and compliance report;
- (g) Set compensation for the Superintendent and employees through the adoption of policy and the annual operating budget, including RMA’s salary and wage schedules;
- (h) Approve contracts for the acquisition of personal property;<sup>4</sup>
- (i) Amend its governing documents (articles of incorporation or certificate of formation, corporate bylaws and any other document or record establishing the protocols and practices of the Board and Richard Milburn Academy) subject to approval of a charter amendment by the commissioner of education; and
- (j) Establish and staff committees to support the Board with its fiscal oversight of RMA’s business affairs, finances and operations.

Sec. 3.2. This final authority notwithstanding, the Board hereby authorizes their Delegate as the Superintendent, to initially exercise the authority set forth in this policy.

Sec. 3.3. In accordance with applicable Board policy, the Delegate shall report to the Board any business arrangement or transaction with an individual that is an officer, and any conflicted,<sup>5</sup> interested,<sup>6</sup> or related<sup>7</sup> party, as defined in other Board policy or applicable law, expressly including family members by blood or marriage to the third-degree. RMA and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 3.4. At the Board’s discretion, the Board may, at any time, review any business arrangement or transaction subject to this policy and approve or disapprove the Delegate’s initial action on the Board’s behalf.

Sec. 3.5. Any delegation of authority notwithstanding, the Board remains responsible for any business arrangement or transaction undertaken by the Delegate.<sup>8</sup>

**Sec. 4. Designee.**

Sec. 4.2. Any delegation of authority notwithstanding, the Delegate remains responsible for the business arrangement or transaction undertaken or that should have been undertaken pursuant to this and other Board policy, including the reporting and accounting of business expenses by RMA officers and employees.

**Sec. 5. Officer.** For the purposes set forth in this and other Board policy, Officer means a person charged with the duties of, or acting as, a chief executive officer, a central administration officer, a campus administration officer, or a business manager.

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body's powers and duties to operate the Richard Milburn Academy shall not be delegated, transferred, assigned, encumbered, pledged, subcontracted, or in any way alienated by the governing body of the Richard Milburn Academy/Texas, Inc.. Any attempt to do so shall be null and void and of no force or effect and shall constitute abandonment of the contract for charter.”

<sup>4</sup> See 19 TAC § 100.1001(6) and 2 CFR § 200.1 for legal definitions of personal property.

<sup>5</sup> Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

<sup>6</sup> 19 TAC § 100.1047(f)

<sup>7</sup> Tex. Ed. Code § 12.1166

<sup>8</sup> Tex. Ed. Code § 12.121; 19 TAC § 100.1101(d)

**Sec. 6 Board Authorization Required.**

Sec. 6 .1. Consistent with the Board’s fiduciary duties and standard of care established under applicable law, the Delegate shall present to the Board for approval any business arrangement or transaction with a cost or value of \$50,000 or that relates to an officer of this policy, or conflicted, interested, or related party, as defined in other Board policy or applicable law.

**Sec. 7. Prudent Person Rule. <sup>9</sup>**

In their use of the funds, property and other organizational resources, such as established lines of credit and the talents of and time worked by employees and contractors, directors and employees shall limit their use of funds and property to purposes pertaining to RMA’s mission and to those activities, functions, programs, and services that are ordinary and necessary for the conduct of RMA’s mission. Importantly, in their use of funds, directors and employees shall only incur costs that, by their nature and amount, do not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time that the decision was made to incur the cost.

**Sec. 8. Abuse and Waste Prohibited.**

Sec. 8.1. Directors and employees shall not abuse or waste funds, property and other organizational resources, such as established lines of credit and the talents of and time worked by employees and contractors.

Sec. 8.2. For purposes of this policy, abuse is defined as behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances. Abuse includes misuse of authority or position for personal financial interests or those of an immediate or close family member or business associate.<sup>10</sup>

Sec. 8.3. For purposes of this policy, waste is defined as the act of using or expending resources carelessly, extravagantly, or to no purpose. In this context, waste relates primarily to mismanagement, inappropriate actions, and inadequate oversight.<sup>11</sup>

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<sup>11</sup> *Government Auditing Standards*, Sec. 6.21, 7.23 and 8.120

## **PG-5.002: CODE OF ETHICS AND FISCAL STEWARDSHIP**

### **Sec. 1. Mission Statement.**

***“Empowering Students to Graduate, Prepared to Exceed All Expectations”***

### **Sec. 2. Board Stewardship.**

It is the policy of RMA to advocate for and issue financial decisions and practices that both further the mission of RICHARD MILBURN ACADEMY/TEXAS, INC., as described above, and that are made in the interest of RICHARD MILBURN ACADEMY/Texas, Inc. in compliance with its fiduciary duty owed to RMA students.

As such, the Board of Directors (“Board”) shall make financial decisions with integrity, fairness, objectivity, and that maximize benefits while minimizing the cost of goods and services to RICHARD MILBURN ACADEMY/TEXAS, INC.

The Board shall, as a body corporate and as individual members, explore and develop fiscal stewardship through training and other means of educating Board members in the understanding of legal and other requirements pertaining to financial management of RICHARD MILBURN ACADEMY/TEXAS, INC. and RMA.

Such training and education shall consider, but shall not necessarily be limited to, the development of management controls and monitoring of business activities, addressing possible fraud and irregularities through special audits and investigations and referrals to oversight agencies and law enforcement, as well as the General Ethical Standards (page 93) in Module 3 of the *Texas Financial Accountability System Resource Guide* (Version 15.0).

## **PG-5.021: Authorization for the Obligation and Expenditure of Funds**

### **Sec. 1. Purpose of Policy.**

Through this policy, the Board of Directors (hereafter, the “Board”) of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, “RMA”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Constitution, Article III, Sec. 51, 52 and 53;
- (b) Texas Business Organizations Code (“Tex. Bus. Org. Code”) Sections 3.101, 22.201, 22.221 and 22.235;
- (c) Texas Education Code (“Tex. Ed. Code”) Sections 12.104(b)(1), 12.107, 12.111(a)(10), 12.115(a)(2), 12.121 and 44.052;
- (d) Texas Administrative Code, Title 19 (“19 TAC”), §§ 100.1033 and 100.1101;
- (e) Code of Federal Regulations, Title 2 (“2 CFR”), § 200.303; and
- (f) Financial Accountability System Resource Guide (“FASRG”).

### **Sec. 2. Authority Over Fiscal Matters.**

Sec. 2.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution.

### **Sec. 3. Initial Adoption.<sup>12</sup>**

Sec. 3.1. Proposed Budget. the Delegate or designee shall prepare and recommend an annual budget for RMA (“Proposed Budget”), for consideration and adoption by the Board. In preparing the Proposed Budget, the Delegate or designee shall include any and all descriptions and amounts for estimated revenues from applicable sources of funding, both known and anticipated, and proposed expenses and outlays for personnel, professional and contracted services, real and personal property, debt service, materials, supplies, and other operating expenses reasonable and necessary for the conduct of RMA’s operations and the furtherance of its mission.

Sec. 3.2. TEDS Compliance. The Delegate or designee shall prepare the Proposed Budget in a form to facilitate RMA’s compliance with the Texas Education Data Standards (“TEDS”) and submission of the required budgeted financial data to the Texas Student Data System Public Education Information Management System.

Sec. 3.3 Coordination and Collaboration. The Delegate or designee shall coordinate and collaborate with the Chief Financial Officer and other directors to develop the Proposed Budget.

Sec. 3.6. Budget Review. Prior to submitting the Proposed Budget to the Board, the Superintendent shall review and approve the Proposed Budget.

Sec. 3.8. Adopted Budget. After reviewing, deliberating, and as appropriate and necessary, revising the Proposed Budget, the Board shall adopt the Proposed Budget during a meeting conducted pursuant to the Texas Open Meetings Act and applicable Board policy (“Adopted Budget”).

### **Sec. 4. Amendment.<sup>13</sup>**

Sec. 4.1. The Delegate or designee may prepare proposed amendments to the Adopted Budget (“Proposed Amendment”) to account for any material variances between realized and estimated revenues and actual and budgeted expenses and outlays.

### **Sec. 5. Authority to Obligate and Expend.<sup>14</sup>**

Sec. 5.1. The Adopted Budget, as amended, constitutes the Board’s authorization to RMA to obligate and expend funds.

### **Sec. 6. Notice to the Public.<sup>15</sup>**

Recognizing that transparency in the administration of public funds is of paramount importance to the administration of RMA, the Board or designee shall publish a notice to the public of the meeting(s) at which it will deliberate and adopt the Proposed Budget. The notice shall conform to the form and content requirements for other notices to the public of the meetings of the Board.

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<sup>12</sup> FASRG Module 2; Tex. Ed. Code § 44.002; 19 TAC § 100.1033(b)(14)(C)(ii)

<sup>13</sup> FASRG Module 2; Tex. Ed. Code §§ 44.006 and 44.052; 19 TAC § 100.1033(b)(14)(C)(ii)

<sup>14</sup> FASRG Module 1 and 2; Tex. Ed. Code § 44.052

<sup>15</sup> FASRG Module 2

**Sec. 7. Deadline for Adoption.<sup>16</sup>**

The Delegate shall prepare the Proposed Budget for the Board prior to the start of the fiscal year.

**Sec. 8. Form and Content of Budget and Amendments.**

Sec. 8.1. The Proposed Budget and all Proposed Amendments to the Adopted Budget presented by the Delegate to the Board shall conform to the requirements set forth in this section. At its discretion, the Board may disapprove any Proposed Budget or Proposed Amendment not conforming to the requirements set forth herein.

Sec. 8.2. The Delegate or designee shall prepare the Proposed Budget and Proposed Amendments utilizing the account code structure required by the Texas Education Agency (“TEA”) and providing sufficient itemization to provide the Board meaningful financial information to make an informed decision.<sup>17</sup>

**Sec. 10. Proposed Expenses to Comply with Allowable Uses of Funds.**

The Delegate or designee shall prepare a Proposed Budget and Proposed Amendments that include proposed expenses that comply with applicable Board policy and state and federal law and are not prohibited as to purpose, for an activity, function, program, or service or for the purchase of a particular item or service.

**Sec. 11. Fiscal Compliance.<sup>18</sup>**

The Board adopts July 1st – June 30th as the fiscal year for RMA. The Proposed Budget and Proposed Amendment(s) should consider:

- (a) The Financial Integrity Rating System of Texas (“FIRST”) to yield a favorable financial accountability rating.
- (b) The maintenance of effort requirements for Federal awards received under the Elementary and Secondary Education Act and the Individuals with Disabilities Education Act.
- (c) State law mandating the minimum percentage that must be expended for the following student-based allotments:
  - (1) Special education allotment,
  - (2) Allotment for student with dyslexia or other related disorder,
  - (3) Compensatory education allotment,
  - (4) Bilingual education allotment,
  - (5) Career and technology education allotment, and
  - (6) College, career, or military readiness outcomes bonus.
- (d) Other applicable Federal or state legal requirements.

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<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

18 FASRG Module 2; Tex. Ed. Code §§ 44.006 and 44.052; 19 TAC § 100.1033(b)(14)(C)(ii)

19 TAC § 100.1047(b)(4)

### **Sec. 12. Publication of Adopted Budget.<sup>19</sup>**

After the Board adopts the Proposed Budget, the Delegate or designee shall post the Adopted Budget on RMA’s website.

### **Sec. 13. Report to the Board<sup>20</sup>**

The Delegate shall provide to the Board a comparison of actual expenses to budgeted expenses, as amended, and discuss applicable variances.

## **PG-5.030: Allowable and prohibited uses of funds**

### **Sec. 1. Purpose of Policy.**

Through this policy, the Board of Directors (hereafter, the “Board”) of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, “RMA”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Constitution, Article III, Sec. 51, 52 and 53;
- (b) Texas Business Organizations Code (“Tex. Bus. Org. Code”) Sections 3.101, 22.201, 22.221 and 22.235;
- (c) Texas Education Code (“Tex. Ed. Code”) Sections 12.104(b)(1), 12.107, 12.111(a)(10), 12.115(a)(2), 12.121 and 44.052;
- (d) Texas Administrative Code, Title 19 (“19 TAC”), §§ 100.1033 and 100.1101;
- (e) Code of Federal Regulations, Title 2 (“2 CFR”), § 200.303; and
- (f) Financial Accountability System Resource Guide (“FASRG”).

### **Sec. 2. Authority Over Fiscal Matters.**

Sec. 2.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution.

### **Sec. 6. Fiduciary Duty.<sup>21</sup>**

As fiduciaries, the Board and directors have been entrusted with funds for the benefit of RMA’s students. Accordingly, RMA funds, property and other resources shall be used for the benefit of RMA’s students to provide secondary instruction and to implement the approved open-enrollment charter,<sup>22</sup> as amended.

### **Sec. 7. Prohibited Use of Public Funds.<sup>23</sup>**

The Board and directors may not pledge or use public funds to secure loans or bonds for any other organization, including a non-charter operation or out-of-state operation conducted by

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<sup>19</sup> 19 TAC § 100.1032(2)K)

<sup>20</sup> FASRG Module 2

<sup>21</sup> Tex. Ed. Code §§ 12.102(1), 12.107(a)(2) and 12.128(a)(2); 19 TAC §§ 100.1001(6), 100.1043(a), and 100.1063(b)(c).

<sup>22</sup> See 19 TAC §100.1001(15) for pertinent legal definition.

<sup>23</sup> Tex. Ed. Code §§ 12.106 and 12.107(a)(5); Public funds means state funds as defined at 19 TAC §100.1001(8).

Richard Milburn Academy/Texas, Inc. or a related party<sup>24</sup> or use public funds to support an operation or activity not related to the educational activities of RMA.

### **Sec. 8. Funds to Support Instructional Plan.**

The Board and directors shall ensure that funds are used to support the implementation of RMA's instructional plan.

### **Sec. 10. General Requirement.**

Sec. 10.1 Recognizing that it is impractical to list every conceivable allowable use of funds and that a general framework is beneficial in guiding decisions regarding the use of funds, RMA shall adhere to the general requirements set forth in this section prior to and when it obligates and expends funds.

Sec. 10.2 The Delegate and RMA's directors shall ensure that a proposed use of funds:

- (a) Is reasonable in its nature and amount;
- (b) Does not exceed that which a prudent person would incur under the circumstances prevailing at the time the decision was made to incur the cost(s);
- (c) Is ordinary and necessary to achieve the goals and implement the strategies and activities of the open-enrollment charter and instructional plan;
- (d) Conforms to RMA's documented and established practices;
- (e) Is generally or specifically allowed by applicable state or federal law, rule or other legal authority; and
- (f) Is not prohibited by applicable state or federal law, rule or other legal requirement; and

### **Sec. 11. Generally Authorized Expenses.<sup>25</sup>**

Sec. 11.1. In general, RMA is authorized to obligate and expend funds for the following purposes.

- (a) To compensate the Superintendent, teachers, janitors and other employees for employment services rendered.
- (b) To pay the interest for short-term loans acquired to compensate employees.
- (c) To purchase equipment, furniture, materials, software, supplies and vehicles.
- (d) To pay for insurance premiums.
- (e) To purchase real property for use as an RMA site pursuant to Board authorization.
- (f) To purchase, build, repair and rent RMA buildings pursuant to Board authorization.
- (g) As authorized by the Board, to acquire RMA buildings and real property.
- (h) For other purposes necessary in the conduct of RMA as determined by the Board including for the following purposes.
  - (1) To develop and monitor a system of controls to ensure compliance with state and federal laws and rules.
  - (2) To conduct Board meetings and provide Board members with training.
  - (3) To procure legal, audit and other professional services necessary for the proper administration and oversight of RMA.

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<sup>24</sup> Tex. Ed. Code §12.1166

<sup>25</sup> Tex. Ed. Code §48.105(c)

- (4) To record, compile, maintain and report data on student attendance, student enrollment, staff, finances, and other functions, programs, services and activities as required by the state and federal governments.
- (5) To develop, maintain and update a charter instructional plan including conducting a comprehensive needs assessment.
- (6) To conduct periodic assessments of students to identify potential learning deficiencies and to measure the students' progress towards desired academic goals.
- (7) For the upkeep and repair of facilities and instructional and instructionally related materials and equipment in the classroom and library, of food service equipment, and of vehicles.
- (8) To provide meals and snacks to students pursuant to the guidelines and requirements of the Texas Department of Agriculture.
- (9) To conduct field trips.
- (10) For athletic and band equipment, instruments or uniforms.
- (11) To conduct graduation and award ceremonies recognizing the achievements of students and staff.
- (12) To conduct background checks.
- (13) For the research, development and maintenance of curriculum and innovative, new or modified instruction.
- (14) For in-service training or staff development for instructional and instructionally related staff conducted by a regional education service center, an outside consultant(s) or RMA employee(s).
- (15) To travel to conduct official RMA business.
- (16) For utilities and the maintenance of telecommunication and computer networks and systems.
- (17) To provide a safe environment.
- (18) For memberships in civic and professional organizations that further RMA's mission.
- (19) For any other identified purpose, function, activity, program or service authorized by the Board through the adoption of RMA's annual operating budget and charter instructional plan including any amendments thereto.
- (20) For other purposes determined by the Board to be in the best interest of RMA's students.
- (21) The predominant purpose of the proposed expense is to accomplish a public purpose<sup>26</sup> and not to benefit private parties.<sup>27</sup>
- (22) The proposed expense shall provide a clear, public benefit in return.<sup>28</sup> and
- (23) Sufficient control shall be retained over the expense to ensure that the public purpose is accomplished, and a return benefit is received.<sup>29</sup>

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*See* Tex. Att'y Gen. Op. No. GA-0076 (2003) at 7 ("The Richard Milburn Academy district must place sufficient controls on the expenditure to ensure that its public purpose is accomplished. Contractual terms may provide sufficient control of some expenditures. [...] Controls such as application requirements and limits on travel expenditures may be established by the board's exercise of rule-making power.").



## **Sec. 12. Generally Prohibited Expenses.**

In general, RMA is prohibited from obligating and expending funds for the following purposes.

- (a) Alcoholic beverages;
- (b) Any good or service for personal benefit or use;
- (c) Entertainment, including amusement, diversion, and social activities;<sup>30</sup>
- (d) Field trips that are not part of a teacher's lesson plan or that do not meet the instructional objectives of the charter instructional plan;
- (e) Fines and penalties levied against individuals; and
- (f) Gifts, including donations.

## **Sec. 13. Authorized Uses of Funds for Special Programs.<sup>31</sup>**

In addition to the general requirement and generally authorized expenses enumerated above, RMA may use and may allow the use of state funds pertaining to the educational programs established under Tex. Ed. Code Chapter 29 and other state law for the authorized purposes.

## **Sec. 14. Indirect Cost Limitation.**

The Delegate or designee may use and may only allow the use of state funds provided for the educational programs for indirect costs up to the maximum allowed by state law.

## **Sec. 16. Documentation Required.<sup>32</sup>**

The Delegate or designee may prepare or cause to have prepared records for all uses of funds.

## **Sec. 17. Monitoring and Oversight of Budgetary Authorization.<sup>33</sup>**

The Delegate or designee may regularly monitor and oversee the use of funds through the review and approval of purchase requisitions, purchase orders, travel reimbursement forms, vendor invoices and receipts, and any and all other such record deemed appropriate and necessary to ascertain if a proposed or actual use of funds constitutes an allowable cost.

## **Sec. 18. Use of Restricted Philanthropic Funds.**

If a donor restricts a contribution or RMA implies or states a specific purpose for its fundraising effort(s), the Delegate or designee may only use or allow the use of the contribution(s) received for the restricted purpose.

# **PG-5.101: FISCAL COMPLIANCE MONITORING**

## **Sec. 1. General Principles.**

The Superintendent of RMA may develop and implement monitoring systems described in this Policy

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<sup>30</sup> FASRG, Update 17 (2020) Module 2, §2.2.2.1 (Social Activities).

<sup>31</sup> Tex. Ed. Code Chapters 29 and 48.

<sup>32</sup>

<sup>33</sup> Tex. Ed. Code §12.115(a)(2); 2 CFR §200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

## **Sec. 2. State Requirements.**

The Superintendent or designee may develop and implement a system to monitor the compliance of RMA with the following state requirements:

### **Sec. 2.1 Financial Solvency.**

The Superintendent or designee may monitor the financial solvency of RMA through the use of historical, budgeted and projected financial and other relevant data. The Superintendent shall consider the impact of the charter instructional plan for the current fiscal year and the long-term strategic plan for the subsequent three fiscal years. Additionally, the Superintendent may consider conservative estimates of student enrollment, student attendance and revenue projections based upon historical data.

### **Sec. 2.2 Financial Accountability Rating System of Texas (FIRST).**

The Superintendent or designee may monitor the finances and operation of RMA to attain a favorable FIRST rating. The Superintendent may consider the adequacy of the system of internal controls to ensure that it enables RMA to achieve compliance with applicable legal requirements. To the degree appropriate and necessary, the Superintendent may consult with RMA's independent auditor or other qualified professional to identify potential issues that may result in an unfavorable FIRST rating.

## **Sec. 3. Federal Requirements.**

### **Sec. 3.1. Maintenance of Effort (MOE).**

The Superintendent or designee may monitor the finances and operation of RMA to ensure that the minimal fiscal effort required by the Federal government for general and special education is attained. The Superintendent may consider the impact of the charter instructional plan for the current fiscal year.

### **Sec. 3.2. General Education.**

In assessing RMA's compliance with the Federal MOE requirement for programs funded pursuant to the No Child Left Behind Act/Elementary and Secondary Education Act/Every Student Succeeds Act, the Superintendent or designee may consider the impact of exceptional or uncontrollable circumstances or a precipitous decline in financial resources.

### **Sec. 3.3. Special Education.**

In assessing RMA's compliance with the Federal MOE requirement for programs funded pursuant to the Individuals with Disabilities Education Act, the Superintendent or designee may consider the impact of changes in staff and student enrollment, the termination of an exceptionally costly program provided to a particular child, the termination of costly expenditures for long-term purchases, and RMA's participation in the high cost grant program.

## **Sec. 4. Projection of Potential Noncompliance.**

The Superintendent or designee may develop or cause to have developed monitoring systems that are based upon the regulatory models implemented by the Texas Education Agency.

**Sec. 5. Requirement to be Exceeded.**

To the degree feasible, the Superintendent or designee may develop monitoring systems that include additional data and indicators beyond those used by the Texas Education Agency in its regulatory models.

**Sec. 6. Data to be Used.**

To the degree feasible, the Superintendent or designee may develop or cause to have developed monitoring systems that include historical, budgeted, actual and projected data to be periodically updated to include actual, year-to-date data and revised projections.

**Sec. 7. Monitoring Timeline.**

To the degree feasible, the Superintendent or designee may develop or cause to have developed monitoring systems that produce results at the beginning, middle and end of the fiscal year.

**Sec. 8. Corrective Action Plan.**

Upon identifying a potential instance of noncompliance, the Superintendent or designee may prepare a plan that addresses the condition(s) that resulted or may result in RMA’s failure to comply with the fiscal requirements addressed by this policy.

**Sec. 9. Administrative Procedures.**

The Superintendent may prepare administrative procedures as necessary to implement this policy.

**PG-5.102: FINANCIAL MANAGEMENT SYSTEM**

**Sec. 1. Financial Management System Defined.**

RMA Financial Management System is the system of controls and records that enable RMA to use and safeguard funds and property for lawfully authorized purposes in furtherance of its mission and to achieve its vision, consisting of the following components.

*Budgetary Control.* The Financial Management System facilitates oversight of RMA’s finances by the Board of Directors (“Board”) through:

1. Approval of obligations and expenses by the Superintendent, Chief Financial Officer and other authorized or designated RMA administrators.
2. Board receipt and review, including accurate, complete and timely updates by Chief Financial Officer of financial reports, as amended to include a comparison of the original and amended budget to RMA’s actual obligations and expenses.

*Financial Reporting.* The Financial Management System shall provide accurate, complete and timely information regarding RMA’s financial condition and other pertinent matters concerning RMA’s operations. The Superintendent may utilize summary or detailed reports and records to oversee RMA’s finances, property and staff resources.

*Records.* The Financial Management System creates and maintains financial accounting and other summary and detailed records that account for RMA’s assets, liabilities, appropriations, obligations, revenues and expenses. The records maintained identify the source and application of funds and the use, as well as the location of property. The

records maintained include sufficiently detailed source documents that function as the origin of the summary and detailed financial and other information disclosed to the public, oversight government agencies, the Board, the Superintendent and other interested parties.

## **Sec. 2. Chart of Accounts.**

In accordance with Module 11 of the *Financial Accountability System Resource Guide* (“FASRG”), RMA shall maintain financial accounting records that utilize the minimum account code structure mandated by the State Board of Education and the Texas Education Agency (“TEA”).

### **Sec. 2.1. Required Account Codes.**

RMA shall utilize the account codes mandated in FASRG Module 11 to account for public funds and public property. As appropriate and necessary, RMA may utilize the local option codes and locally defined classifications provided in FASRG Module 11.

### **Sec. 2.2. Local Account Codes.**

Within the mandated account code structure, RMA may develop and use locally defined account codes that facilitate the administration and oversight of RMA functions and activities and the use of local funds and property.

## **Sec. 3. Obligations.**

The Superintendent or designee shall authorize or cause to be authorized any obligation of public funds. Additionally, the Superintendent or designee shall prepare a financial accounting record(s) that accounts for any obligation of local or public funds through the execution of a contract or the issuance of a purchase order.

## **Sec. 4. Disbursements for Goods and Services.**

The Superintendent or designee shall authorize any disbursement of public funds through check, electronic funds transfer, charge or credit account, promissory note, or other means or method of disbursing funds to a third party. Prior to authorizing the disbursement of funds, the Superintendent shall prepare or cause to be prepared a sufficiently detailed, original internal accounting record identifying the business- related purpose of the disbursement. Additionally, the Superintendent or designee shall obtain a sufficiently detailed, third-party record identifying the goods received or services rendered.

## **Sec. 5. Disbursements for Employment Services.**

As authorized by the Board through policy or resolution, the Superintendent or designee shall approve the employment of qualified individuals for RMA positions. Moreover, the Superintendent or designee will review payroll, personnel and time or activity accounting records to support the use of local and public funds for employment services.

## **Sec. 6. Competitive Procurement.**

Pursuant to applicable Federal and state law and rules, the Superintendent or designee ensures that goods and services are procured competitively to ensure that limited financial resources are maximized without unreasonably sacrificing the quality of the goods and services received.

## **Sec. 8. Administrative Procedures.**

The Superintendent may prepare administrative procedures as necessary to implement this policy.

## **PG-5.110: Accounts Payable**

### **Sec. 1. Purpose of Policy.**

Through this policy, the Board of Directors (hereafter, the “Board”) of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, “RMA”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Education Code (“Tex. Ed. Code”), notably Sections 12.107, 12.115(a)(2), 12.121 and 12.128;
- (b) Texas Business Organizations Code (“Tex. Bus. Org. Code”), notably Sections 3.101, 22.201, 22.221 and 22.235;
- (c) Texas Administrative Code, Title 19 (“19 TAC”), Chapter 100, notably §§:100.1047(b) and 100.1101;
- (d) Code of Federal Regulations, Title 2, Part 200 (“2 CFR 200”);
- (e) Financial Accountability System Resource Guide;
- (f) *Standards for Internal Control in the Federal Government* promulgated by the Comptroller General of the United States;
- (g) *Internal Control - Integrated Framework* issued by Committee of Sponsoring Organizations of the Treadway Commission; and
- (h) *Government Auditing Standards* (2018 Revision) promulgated by the U.S. Government Accountability Office.

### **Sec. 2. Applicability of Policy.**

This policy pertains to the payment of invoiced amounts or accounts payable, pertaining to the purchase of goods and services, through the use of local or state funds

### **Sec. 3. Authority Over Fiscal Matters.**

Sec. 3.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution.

### **Sec. 11. Disbursement to Vendors.**

The Delegate or designee shall only issue payment to a vendor’s mailing address or directly into the vendor’s bank account.

### **Sec. 12. Records.<sup>34</sup>**

The Delegate or designee should create, obtain, and maintain adequate and sufficient records to support the disbursement of RMA funds to a vendor for invoice amounts, as required by applicable law, rule and policy.

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<sup>34</sup> Tex. Ed. Code §§ 12.1052 and 12.115(a)(2); 19 TAC §§ 100.1022(c)(1)(vi), 100.1032(2)(P) and 100.1203(a)(2)

## **PG-5.120: Grant Accounting**

The Board has adopted the Federal and State Grants Management Procedures that provide details regarding that which was formerly referred to as Federal Fiscal Compliance. Please refer to these procedures, located at <https://www.rmaschools.org/about/governing-board/> for a current copy of these adopted procedures.

## **PG-5.130 Travel**

### **Sec. 1. Purpose of Policy.**

Through this policy, the Board of Directors (hereafter, the “Board”) of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, “RMA”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Education Code (“Tex. Ed. Code”) §§ 12.107, 12.115(a)(2) and 45.105(c);
- (b) Financial Accountability System Resource Guide; and
- (c) Internal Revenue Code and Treasury Regulations.

### **Sec. 2. Authority Over Fiscal Matters.**

Sec. 2.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution.

### **Sec. 3. Definitions.**

For purposes of this policy, the following terms have the meanings provided in this section.

Sec. 3.1. *Commercial lodging establishment* means a motel, hotel, inn, apartment, house or similar establishment that provides lodging to the public for pay.<sup>35</sup>

Sec. 3.2. *Duty point* means the destination, other than a place of employment, to which an RMA employee travels to conduct official RMA business.<sup>36</sup>

Sec. 3.4. *Place of employment* means the office or other physical location at which an RMA employee most frequently conducts official RMA business.<sup>37</sup> Additionally, the employee’s place of employment includes the entire city or general area in which the employee’s office or other physical location is located.<sup>38</sup> If an RMA employee has more than one place of work, the following factors are determinative of which one is the employee’s main place of work:

- (a) The total time the employee ordinarily spends at each place;
- (b) The level of the employee’s business activity in each place; and

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<sup>35</sup> Textravel (General ; Definitions) (December 28, 2021)

<sup>36</sup> *Ibid.*

<sup>37</sup> *Ibid.*

<sup>38</sup> IRS Publication 463, Chapter 1, Travel (Tax Home).

(c) Whether the employee's income from each place is significant or insignificant.<sup>39</sup>

**Sec. 6. Abuse and Waste Prohibited.**

RMA employees must use discretion when making travel arrangements to conserve RMA's limited financial and other resources.

**Sec. 8. General.**

Sec. 8.1. RMA shall reimburse employees for reasonable and necessary travel expenses. Moreover, RMA shall only reimburse employees for travel expenses incurred only if the purpose of the travel clearly involves official RMA business as authorized under applicable legal authority.<sup>40</sup>

Sec. 8.2. RMA shall minimize the amount of travel expenses reimbursed by ensuring that each travel arrangement is the most cost-effective considering all relevant circumstances.<sup>41</sup>

Sec. 8.3. Generally, employees should make their travel arrangements once the business purpose for their travel has been confirmed and is not subject to change and in a manner that provides with flexibility and avoids costs that may arise as a result of a sudden and unanticipated circumstance or event.

Sec. 8.4. Sec. 8.3 of this policy notwithstanding, RMA shall reimburse employees for costs incurred for which flexibility could not be arranged and resulting from a sudden and unanticipated circumstance or event.

Sec. 8.5. RMA employees should select the most cost effective, and not the most convenient, method of transportation available.<sup>42</sup>

Sec. 8.7. RMA employees are responsible for adequately and clearly documenting the business purpose of their travel to support the expenses incurred.

Sec. 8.9. RMA shall not reimburse an employee for any expenses incurred that do not pertain to official RMA business, do not conform to Board policy, or violate applicable law.

Sec. 8.10. RMA shall not reimburse an employee for travel expenses that are not accurately and completely itemized and documented as required by this policy and applicable legal requirements.

Sec. 8.11. RMA shall not reimburse an employee for the travel expenses of spouses and other persons who have no responsibilities or duties to perform for RMA.

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<sup>39</sup> IRS Publication 463, Chapter 1, Travel (Tax Home; Main place of business or work).

<sup>40</sup> Textravel (General; Official state business) (December 28, 2021)

<sup>41</sup> Textravel (General; Conservation of state funds) (December 28, 2021)

<sup>42</sup> Textravel (Transportation) (December 28, 2021).

Sec. 8.12. RMA shall not reimburse any person<sup>43</sup> who is not an employee and who incurs travel expenses except as agreed-upon in a written, fully executed agreement between the person and RMA.

**Sec. 10. Travel by Commercial Air Transportation.<sup>44</sup>**

Sec. 10.1. RMA employees shall travel by commercial air transportation at the lowest available airfare between the employee's place of employment and the employee's duty point.

Sec. 10.2. The Delegate or designee shall reimburse an employee for the actual cost of commercial air transportation at the lowest available airfare between the employee's place of employment and the employee's duty point.

**Sec. 11. Travel by Ground Transportation.**

RMA shall reimburse employees for the following modes of ground transportation.

**Sec. 11.2. Personal Vehicle.<sup>45</sup>**

Sec. 11.2.1. RMA employees may use their personal vehicles to travel on official business.

Sec. 11.2.2. RMA may reimburse an employee for the use of their personal vehicle in an amount not to exceed the maximum mileage reimbursement rate approved by the Internal Revenue Service applied to the total number of miles traveled for official business.

Sec. 11.2.4. RMA shall reimburse an employee for the use of their personal vehicle to travel from their residence or place of employment to the airport if they commence their travel outside of their scheduled work hours.

Sec. 11.2.5. Travel between an employee's private residence and place of employment (commuting) is not a reimbursable travel expense.

Sec. 11.2.6. In accordance with applicable state law, RMA employees shall maintain adequate automotive insurance for any personal vehicles used for business travel.

**Sec. 11.3. Rental Vehicles.**

Sec. 11.3.1. RMA employees may rent vehicles to conduct official RMA business.

Sec. 11.3.3. RMA employees shall present Form 14-305, "Motor Vehicle Rental Tax Exemption Certificate", in order to avoid being charged the Texas motor vehicle gross rental receipts tax.

Sec. 11.3.4. RMA employees must report any vandalism, thefts or accidents of a rental car to the rental car agency and local law enforcement and must obtain copy of the police report filed.

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<sup>43</sup> For purposes of this policy, *person* means a natural person or a corporation, partnership, limited liability company, business trust, trust, association, or other organization, estate, government or governmental subdivision or agency, or other legal entity, or a series of a domestic limited liability company or foreign entity.

<sup>44</sup> Textravel (Transportation; Commercial air transportation) (December 28, 2021)

<sup>45</sup> Textravel (Transportation; Mileage in personal vehicle) (December 28, 2021).



Sec. 11.3.5. Other. RMA may reimburse an employee for the actual cost of transportation by bus, limousine, network transportation driver (e.g., Uber), taxi, or other similar mode of transportation if incurred to conduct official business.<sup>46</sup>

## **Sec. 12. Lodging.**

Sec. 12.1.2. RMA may reimburse an employee for actual lodging expenses incurred for no more than the night before official business begins and the night after official business ends.<sup>47</sup>

Sec. 12.1.3. Richard Milburn Academy employees attending conferences and training may stay at the conference hotel or conference partner hotels.

Sec. 12.1.4. Employees are responsible for canceling hotel and other arrangements if a trip is cancelled and for presenting a Form 12-302, "Texas Hotel Occupancy Tax Exemption Certificate" to the commercial lodging establishment during the check in process.

## **Sec. 13. Meals.**<sup>48</sup>

Sec. 13.1.1. RMA shall reimburse an employee for actual meal expenses incurred, not to exceed the maximum meal reimbursement rate for the duty point authorized by the U.S. General Services Administration, on a day that the employee conducts official RMA business outside of the employee's place of employment.

Sec. 13.1.2. RMA's maximum meal reimbursement rate is not a per diem. Accordingly, an employee may only claim the maximum meal reimbursement rate if the employee's actual meal expenses equal or exceed the maximum meal reimbursement rate.

Sec. 13.1.3. An employee whose duties require the employee to travel outside the employee's place of employment without an overnight stay away from the employee's place of employment may be reimbursed for the actual cost of the employee's meals not to exceed the maximum allowed authorized by U.S. General Services Administration.

## **Sec. 15. Advance.**

RMA does not advance travel allowances.

## **Sec. 16. Request for Reimbursement of Travel Expenses.**

Sec. 16.1. Required Filing. Upon their return to their place of employment, employees shall file a request for reimbursement of travel expenses form and the required supporting documentation.

Sec. 16.2. Required Content. Employees shall prepare a Request for Reimbursement of Travel Expenses form that includes the following information:

- (a) The employee's full, legal name and place of employment;
- (b) The travel destination and dates of travel;
- (c) The actual amounts expended by the employee for lodging, meals, mileage for personal vehicle driven, parking, transportation, and other travel-related expenses;

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<sup>46</sup> Textravel (Transportation; Mass transit, taxi or limousine) (December 28, 2021)

<sup>47</sup> Textravel (Meals and Lodging; Lodging) (December 28, 2021)

<sup>48</sup> Textravel (Meals) (December 28, 2021)

- (d) A statement certifying that the employee's request is accurate, complete and true;
- (e) A statement certifying that the supporting documents attached to the form are accurate, complete, true and unaltered records;
- (f) The employee's signature and date of signature; and
- (g) The employee's supervisor signature and date of signature.

**Sec. 17. Required Supporting Documentation.<sup>49</sup>**

Sec. 17.1. Unaltered Records. For each expense, an employee shall attach legible, and unaltered records issued by the vendor that provides sufficient detail to substantiate the expenses reported on the Travel Expense Form and to demonstrate that the cost incurred is allowable pursuant to this policy and applicable law.

Sec. 17.3. Electronic Versions. An employee may submit an electronic version of a required record provided that all required information is disclosed thereon as provided in this policy.

Sec. 17.4. Failure to Attach. The Delegate or designee shall not reimburse an employee for an expense if the employee does not attach a record conforming to the requirements.

Sec. 17.5. Commercial Air Transportation: An employee shall provide a passenger receipt issued by a commercial airline company or an itinerary that includes:

- (a) the name of the employee and airline,
- (b) the travel dates,
- (c) the amount of the airfare, and
- (d) the origin and destination of each flight.<sup>50</sup>

Sec. 17.7 Personal Vehicle. An employee shall provide the total number of miles traveled as determined by a sufficiently detailed point-to-point itemization, which may be documented by a readily available online mapping service. If an online mapping service is used, the employee shall provide a copy of the online map, including route directions and mileage.

Sec. 17.9 Other Ground Transportation. For transportation by bus, limousine, network transportation driver (e.g., Uber), taxi, or other similar mode of transportation, an employee shall provide an itemized receipt for that includes the following information:

- (a) the name of the company,
- (b) the date that the service was received, and
- (c) the fare charged.

Sec. 17.10. Lodging. An employee shall provide an itemized receipt or statement issued by the commercial lodging establishment that includes the following information:

- (a) The name and address of the commercial lodging establishment;
- (b) The name of the employee;

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<sup>49</sup> Tex. Ed. Code § 12.115(a)(2); IRS Publication 463 (Chapter 5: Recordkeeping); Textravel (Documentation Requirements) (December 28, 2021)

<sup>50</sup> Textravel (Documentation Requirements – Transportation; Commercial air transportation) (December 28, 2021)

- (c) The single room rate;
- (d) The date(s) that the employee stayed overnight at the establishment;
- (e) A daily itemization of the lodging charges; and
- (f) Proof of payment.

Sec. 17.12. Training Events. If the travel expenses relate to a training event, an employee should provide a certificate of attendance, certificate of completion, or other equivalent document demonstrating that the employee attended the conference, seminar, workshop, or other training event.

### **Sec. 18. Review by Delegate.**

Upon receiving an employee's Travel Expenses form and required supporting documentation, the Delegate or designee shall review and approve or disapprove an employee's request for reimbursement. If disapproved, the Delegate or designee shall inform the employee of the amount(s) that were disallowed and the basis for the disallowance.

### **Sec. 21. Eligible Expenses.<sup>51</sup>**

Sec. 21.1 An employee may be reimbursed for the following eligible expenses:

- (a) Common carrier fares for coach or regular passenger seating, including the cost of transportation via airplane, bus, limousine, network transportation driver (e.g., Uber), taxi, and train;
- (b) Charges for excessive baggage as long as the travel is related to state business and the charges are reasonable and the number of bags was necessary;
- (c) Commercial lodging rates;
- (d) Hotel occupancy taxes;
- (e) Rental car rate, applicable taxes, and mandatory charges;
- (f) Collision damage waiver or loss damage waiver if not included in RMA's insurance policies;
- (g) Maximum mileage reimbursement rate applied to the actual mileage driven to conduct official RMA business; and
- (h) Actual cost of meals not to exceed the maximum allowable rate.

### **Sec. 22. Cancellation Charges.<sup>52</sup>**

An employee may be reimbursed for a cancellation charge, related to a travel expense, if the charge was incurred:

- (a) For a reason related to RMA business, or
- (b) For a reason related to RMA business that could not be conducted because of a natural disaster, or
- (c) Because the employee was unable to use transportation that was paid in advance to obtain a cost savings because that employee was ill or had a personal emergency.

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<sup>51</sup> Textravel (December 28, 2021)

<sup>52</sup> Textravel (Miscellaneous Provisions; Cancellation charges) (December 28, 2021)

## **Sec. 23. Ineligible Expenses.**

Sec. 23.1. An employee shall not be reimbursed for a cost if it is not authorized or is prohibited by applicable law, rule, or other legal requirement and does not conform to the requirements set forth in this policy.

Sec. 23.2. An employee shall not be reimbursed for the following ineligible expenses:

- (a) Alcoholic beverages;
- (b) Business or first-class seating;
- (c) Fines, including, but not limited to, fines assessed for parking or moving violations;
- (d) Mileage for commuting between an employee's private residence and place of employment;
- (e) Laundry, personal phone calls, internet service for personal use, in-room movies, etc.;
- (f) Toiletries;
- (g) Travel insurance;
- (h) Travel for spouses, family members, the employee's companion(s), the employee's children, non-RMA employees, or other acquaintances, associates or guests; and
- (i) Valet services (Unless documentation is provided that the hotel does not offer self-parking.)

## **PG-5.180: Activity Funds**

### **Sec. 1. Purpose of Policy.**

Through this policy, the Board of Directors (hereafter, the "Board") of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, "RMA") shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Education Code ("Tex. Ed. Code") Sections 12.115(a)(2); Texas Business Organizations Code ("Tex. Bus. Org. Code"); Texas Administrative Code, Title 19 ("19 TAC"), §:100.1047(b); Financial Accountability System Resource Guide ("FASRG"); and *Government Auditing Standards*.

### **Sec. 2. Applicability of Policy.**

This policy pertains to the receipt, safeguarding, and use of activity funds, as defined herein.

### **Sec. 3. Authority over Fiscal Matters.**

Sec. 8. Sec. 3.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution.

### **Sec. 4. Definitions.**

Sec. 4.1. Cocurricular Activities.<sup>53</sup>

"Cocurricular Activities" are RMA sponsored activities that directly add value to classroom instruction and curriculum.

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<sup>53</sup> FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H.

Sec. 4.2. Extracurricular Activities.<sup>54</sup>

“Extracurricular Activities” are RMA sponsored activities outside the RMA day that are generally ones designed to motivate students and provide them with enjoyment and skill improvement in either a competitive or noncompetitive setting.

Sec. 4.4. Campus or RMA Academy Activity Funds.<sup>55</sup>

“Campus Activity Funds” are funds that belong to and are under the control of RMA and campus and that are used to support campus and or RMA programs and activities.

## **Sec. 5. Activity Fund Accounting.**

Sec. 5.1. The Delegate or designee should account for the receipt and use of fundraising proceeds at a campus, as applicable.

Sec. 5.2. The Delegate or designee should maintain control of and disburse activity funds through RMA’s central accounting office.<sup>56</sup>

Sec. 5.3. To enable campuses to acquire goods and services with their available campus funds, the Delegate or designee should facilitate a process whereby campuses may acquire goods and services as and when needed.<sup>57</sup>

Sec. 5.5. RMA shall not account for funds collected, disbursed, and controlled by parents, patrons, or alumni organizations because these funds are not activity funds.<sup>58</sup>

Sec. 5.6. Organizations controlled by parents, patrons, or alumni are separate legal entities from RMA and shall maintain separate and distinct accounting, auditing, budgeting, reporting, and recordkeeping systems from those recording the business activities of RMA.<sup>59</sup>

## **Sec. 6. Responsibility for Activity Funds.<sup>60</sup>**

Sec. 6.1. Delegate.

Sec. 6.1.1. The Delegate or designee should be responsible for the overall administration and accounting of all activity funds.

Sec. 6.2. Designees.

Designated RMA campus staff are responsible for:

- (a) Proper collection, disbursement, and control of activity funds;
- (b) Safekeeping of the activity funds;
- (c) Accounting, which includes, but is not limited to, creating and maintain cash receipt records;

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<sup>54</sup> FASRG, Module 3, Special Supplement—Nonprofit Richard Milburn Academy Chart of Accounts, Update 17 (2020), page 53.

<sup>55</sup> FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.1.1).

<sup>56</sup> FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.2.4).

<sup>57</sup> *Ibid.*

<sup>58</sup> FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.1).

<sup>59</sup> 19 TAC §100.1047(e)

<sup>60</sup> FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.2.3).

- (d) Record keeping, which requires RMA to keep activity fund records for the same length of time as other accounting records;
- (e) Conducting annual audits of activity funds by using an internal or external auditor; and
- (f) Ensuring activity fund purchases comply with RMA’s purchasing procedures and applicable legal requirements.

**Sec. 8. Activity Fund Receipts.**

The Delegate or designee should ensure that RMA retains adequate custody and control over activity funds and should ensure that a receipt is issued to any student or parent submitting fundraising or other proceeds. The Delegate or designee should ensure that all activity fund proceeds are forwarded to central office for deposit to the bank account and that the cash collected is not used to make purchases or payments of any kind.

**Sec. 10. Fundraising.**

Sec. 10.1. When fundraising activities are in the name of RMA, all funds raised become RMA funds.<sup>61</sup>

Sec. 10.2. Prior to undertaking any fundraising activities, the campus principal must approve all fundraising and sales activities and said approval must occur within thirty (30) days after a request is submitted. Once the purpose has been declared, funds cannot be repurposed at a later date.

Sec. 10.4. Staff must keep control of the merchandise and fundraising proceeds and maintain records.

Sec. 10.5. Raffles and gambling are prohibited.

**Sec. 11. Contributions.**

RMA may receive contributions from donors in the form of cash or check. RMA shall issue a tax-exempt letter to a donor upon request.

**Sec. 12. Activity Fund Roll Forward.**

At the end of each fiscal year, any account balance remaining in a campus activity fund shall not roll forward to the following fiscal year.

**PG-5.190: Financial Reporting**

**Sec. 1. Purpose of Policy.**

Through this policy, the Board of Directors (hereafter, the “Board”) of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, “RMA”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Education Code (“Tex. Ed. Code”) Sections 12.115(a)(2) and 12.1162(a)(2);
- Texas Business Organizations Code (“Tex. Bus. Org. Code”);
- Texas Administrative Code, Title 19 (“19 TAC”);
- Code of Federal Regulations, Title 2 (“2 CFR”), Part 200;

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<sup>61</sup> FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.1.3).

*Financial Accountability System Resource Guide (“FASRG”); Standards for Internal Control in the Federal Government; and Government Auditing Standards.*

**Sec. 2. Authority Over Fiscal Matters.**

Sec. 9. Sec. 2.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution.

**Sec. 3. Development of Monthly Financial Statements and Budget Amendments.**

The Delegate or designee should prepare and provide unaudited financial statements to the Board at each meeting. The Board may grant extensions as appropriate and necessary.

As appropriate and necessary and consistent with Board policy governing the annual operating budget, the Delegate or designee should prepare amendments to the budget adopted by the Board.

**Sec. 4. Presenting Financial Statements and Budget Amendments to Board.**

During each meeting, the Board shall review unaudited financial statements. The Delegate or designee shall address any inquiries from the Board regarding the operating budget and financial disclosures during these meetings.

**Sec. 5. Financial Reporting Data Submission.**

RMA should submit, in the form and manner specified by the Texas Education Agency (TEA) or other grantor or regulatory entity and by the date required under applicable law or rule:

- (a) A financial and compliance report, management letter (if issued by the independent auditor) and any required supplementary data submission;
- (b) Budgeted financial data and actual, audited financial data to the Public Education Information Management System (PEIMS); and
- (c) Other forms and reports required by state or federal law or rule.

**Sec. 6. IRS Filings.**

In accordance with the Internal Revenue Code and Treasury Regulations, RMA shall file a Form 990 annually on or before the date due. Additionally, RMA shall file Form 941s quarterly on or before the dates due.

**Sec. 7. Annual Audit; Annual Financial and Compliance Report.**

Sec. 7.1 Annual and Interim Audits.

Sec. 7.1.1. In accordance with the Professional Services Procurement Act, RMA shall procure the services of a certified public accountant that meets the requirements established in rule by the TEA to conduct an annual, independent audit of its financial statements, the financial and programmatic operations of RMA, and the accuracy of the fiscal information submitted through the PEIMS and to provide an opinion on the financial statements and issue a report on internal

control over financial reporting and on compliance and a report on compliance for major federal programs and on internal control over compliance.<sup>62</sup>

Sec. 7.1.2. The Delegate or designee shall ensure that the independent auditor conducts an end of year audit for each fiscal year.

### **Sec. 7.2. Independent Auditor's Qualifications.**

Sec. 7.2.1. The independent auditor should:

- (a) Be associated with a CPA firm that has a current valid license issued by the Texas State Board of Public Accountancy;
- (b) Be a CPA with a current valid license issued by the Texas State Board of Public Accountancy; and
- (c) Adhere to the generally accepted auditing standards (GAAS), adopted by the American Institute of CPAs (AICPA), as amended, and the generally accepted government auditing standards (GAGAS), adopted by the U.S. Government Accountability Office, as amended.<sup>63</sup>

Sec. 7.2.2. The CPA firm should:

- (a) Be a member of the AICPA Governmental Audit Quality Center (GAQC);
- (b) Adhere to GAQC's membership requirements; and
- (c) Collectively have the knowledge, skills, and experience to be competent for the audit being conducted, including thorough knowledge of GAGAS.

Sec. 7.3. Report Requirements.

Sec. 7.3.1. Report Content.

The Delegate or designee should ensure that the annual financial and compliance report includes the content, reports, schedules and note disclosures required under generally accepted accounting principles (GAAP), as promulgated by the Financial Accounting Standards Board, and pursuant to the financial reporting requirements adopted by the TEA in the FASRG. The Delegate or designee shall ensure that the annual financial and compliance report includes financial and other information for the corporation as a whole and for its open-enrollment charter school.<sup>64</sup>

Sec. 7.3.3. Board Approval.

The Board shall review and approve, or disapprove, the content of the annual financial and compliance report before it is submitted to the TEA. If the Board disapproves the content of the report, the Board shall state its disapproval, including the reason(s) for disapproving the report's content, in writing to the TEA.

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<sup>62</sup> 19 TAC §100.1047(c); 19 TAC §109.23(d)

<sup>63</sup> 19 TAC §109.23(d)(1)

<sup>64</sup> 19 TAC §100.1047(b); Tex. Bus. Org. Code §22.352



## **PG-5.210: CASH MANAGEMENT**

### **Sec. 1. Board Oversight of Cash.**

The Board of Directors (“Board”) shall govern and manage the cash received and disbursed from all sources of funding in a manner consistent with State and Federal law and to achieve favorable cash flows to further the interests of RICHARD MILBURN ACADEMY/TEXAS, INC. and RMA. No cash in the amount over \$30, per transaction, per student, will be collected by any RMA staff member. Any amount over \$30 will only be accepted in the form of 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 students shall document from whom the money was received, the date, and in what amount. A copy of the receipt shall be kept with the cash received. Such money shall be submitted to the Principal on the same school day as it is received for deposit. The Principal will exchange this cash for a money order and mail it using a trackable method, to the Finance Department on a weekly basis. The Superintendent or designee shall be responsible for ensuring that all monies received are deposited in RMA’s bank account. Deposits shall be made weekly. The use of petty cash shall not be allowed. RMA does not accept personal checks from parents or students. Money orders may be presented for payment.

### **Sec. 2. Operating Account.**

The Board may require that all local, State and Federal funds be deposited into a single account maintained by a bank as defined in Education Code Section 45.201. Additionally, and except as provided in Sec. 5.4.3, the Board shall require that all local, State and Federal funds be disbursed from the same account. The bank account created and maintained pursuant to this section shall be commonly referred to as the Operating Account.

### **Sec. 3. Payroll Account.**

The Board may authorize a second bank account for the sole purpose of disbursing the wages or salary and other compensation, less authorized deductions, from local, State and Federal funds to employees of RMA. A bank account so created and maintained shall be commonly referred to as the Payroll Account.

### **Sec. 4. Account Signatories.**

The Board has authorized the Superintendent, the Chief Financial Officer, and the Board President as the signatories to RMA’s bank accounts.

### **Sec. 5. Record of Cash Receipts and Disbursements.**

The Superintendent or designee should prepare a financial management system that conforms to the requirements of the Texas Education Agency to record a unique record for each deposit made for and for each disbursement made from each source of funding.

### **Sec. 8. Reconciliation of Accounts.**

The Superintendent or designee should reconcile statements received from the bank for the Operating and Payroll Accounts to the respective Check Registers, addressing and resolving discrepancies.

### **Sec. 11. Other Method of Disbursement.**

The Superintendent or designee is authorized to disburse funds through the Operating and/or Payroll Account, charge accounts or credit accounts. Funds shall not be disbursed through debit or gift cards.

### **Sec. 13. Money Market Account.**

The Board may authorize the use of a money market account maintained by a bank as defined in Education Code Section 45.201.

## **PG-5.220: Corporate Credit Accounts**

### **Sec. 1. Purpose of Policy.**

Through this policy, the Board of Directors (hereafter, the “Board”) of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, “RMA”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Constitution, Article 3, Sec. 50, 51, 52 and 53;
- (b) Texas Business Organizations Code (“Tex. Bus. Org. Code”) Sections 3.101, 22.201, 22.221 and 22.235;
- (c) Texas Education Code (“Tex. Ed. Code”), Sections 12.107, 12.1052, 12.115(a)(2), 12.121, 12.128 and 45.105(c);
- (d) Texas Administrative Code, Title 19 (“19 TAC”), Sections 100.1022, 100.1032, 100.1033, 100.1043, 100.1047, 100.1063, 100.1101, and 100.1203;
- (e) Code of Federal Regulations, Title 2, Part 200 (“2 CFR 200”); and
- (f) Financial Accountability System Resource Guide.

### **Sec. 2. Authority Over Fiscal Matters.**

Sec.2.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution. Refer to the Board’s Policy relating to its Authority Over Fiscal Matters (the “Controlling Policy”) for requirements applicable to this policy.

Sec. 2.2. The Delegate shall report to the Board any business arrangement or transaction with an individual that is an officer and any conflicted,<sup>65</sup> interested<sup>66</sup> or related<sup>67</sup> party, as defined in other Board policy or applicable law. RMA and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

### **Sec. 3. Board Authorization.**

Sec. 3.1. The Board authorizes the Delegate to establish a corporate credit account(s) for the purpose of procuring goods and/or services for RMA activities, functions, programs and services

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<sup>65</sup> Tex. Ed. Code §12.1054; 19 TAC §§ 100.1131 through 100.1135

<sup>66</sup> 19 TAC §100.1047(f)

<sup>67</sup> Tex. Ed. Code §12.1166

and to facilitate business travel. In furtherance of this purpose, the Delegate may authorize certain RMA employees to use the corporate credit account(s).

#### **Sec. 4. Compliance with Policy.**

In establishing a corporate credit account(s), the Delegate should ensure compliance with the requirements set forth in this policy and other Board policy. In accepting the Delegate's authorization to use the corporate credit account(s), RMA employees should adhere to the requirements set forth in this policy and other Board policy.

#### **Sec. 5. Employee Eligibility.**

Sec. 5.1. Employment Status. RMA personnel shall be employed on a full-time status to be eligible to use the corporate credit account(s). RMA personnel employed on a less than full-time status, independent contractors, and volunteers are not eligible to use the corporate credit account(s).

Sec. 5.4. Participation Optional. RMA employees are not required to use RMA's corporate card account(s) to purchase goods and/or services or to conduct business travel. Instead, employees may submit an expense reimbursement request.

#### **Sec. 6. Requirements for Approval and Use.**

Sec. 6.5. Financial Responsibility. Prior to using RMA's corporate credit account(s), the employee may accept financial responsibility for any expenses charged to their assigned corporate credit account and card that fails to conform to the requirements of this policy and applicable law.

#### **Sec. 7. Delegate's Responsibilities.**

The Delegate or designee shall:

- (a) Oversee the administration of RMA's corporate credit account(s);
- (b) Review each cardholder's expenses, approve or disapprove each cardholder's charges, and authorize the payment of all eligible expenses charged to the corporate credit account(s);
- (c) If an expense is disapproved, inform the cardholder in writing of the amount(s) that were disallowed and the basis for the disallowance;
- (d) Provide access to monthly statements to each employee authorized to use the corporate credit account(s);
- (e) Monitor and enforce compliance with this policy, any other related Board policies, and any administrative procedures;
- (f) Investigate any irregularities or alleged misconduct and report findings to the Board;
- (g) Take control and possession of an employee's access to the corporate credit account(s) upon the employee's separation from employment with RMA or other relevant change in employment status; and
- (h) Disclose, in writing, any violation of this policy by any employee to the Board.

#### **Sec. 8. Authorized Employee Duties.**

Sec. 8.1. Abuse and Waste Prohibited. Consistent with Sec. 8 of the Controlling Policy, cardholders shall not use the corporate credit account(s) to abuse or waste RMA's financial resources and established lines of credits.

Sec. 8.2. Appropriate Use. Cardholders shall agree to the appropriate use of the corporate credit account(s) and card(s) assigned to them thereby restricting the use of said account(s) and card(s) to the purchase of goods and/or services for official RMA business.

Sec. 8.3. Billing Errors and Unrecognized Transactions. Cardholders shall identify and satisfactorily resolve any billing errors and unrecognized expenses.

Sec. 8.4. Credits and Returns. Cardholders shall return items for credit and not for cash refunds. Cardholders shall ensure that any returned items are credited to the corporate credit account(s).

Sec. 8.5. Disclosure of Conflicted, Interested, or Related-Party Transactions. Cardholders shall disclose to the Delegate or designee any business arrangement or transaction with any conflicted, interested, or related party, as defined in other Board policy or applicable law. Cardholders may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 8.6. Fraudulent Charges. Cardholders shall report fraudulent charges to the corporate credit account issuer and the Delegate or designee immediately after they become aware of the fraudulent charges.

Sec. 8.7 Fraudulent Use Prohibited. Cardholders shall not use their corporate credit account(s) and card(s) to commit fraud or other criminal act. Cardholders shall be liable for any fraudulent or other charges of a criminal nature.

Sec. 8.8 Liability for Charges. Cardholders shall agree to be liable for the expenses charged to the corporate credit account(s) and card(s) assigned to them and to pay the credit account and card issuer for the expenses incurred. Notwithstanding, personal use of the corporate credit account(s) and card(s) is strictly prohibited and any abuse may lead to loss of card privileged, as well as adverse employment action up to and including termination.

Sec. 8.9. Lost or Stolen Card(s). Cardholders shall report lost or stolen corporate credit cards to the issuer and the Delegate or designee immediately after they become aware of the loss.

Sec. 8.10. Method of Procurement. Cardholders are required to and shall be responsible for procuring goods and services pursuant to the procurement methods identified in the Board's Policy relating to Purchasing and Contracting.

Sec. 8.11. Personal Use Prohibited. Cardholders shall only use their corporate credit account(s) and card(s) for official RMA business only and shall not use the account(s) and card(s) for their personal benefit. Cardholders shall agree to be liable for any charges of a personal nature and may face personnel action, up to and including termination.

Sec. 8.12. Prudent Person Rule. An authorized employee, or cardholder, shall limit the use of the corporate credit account(s) to costs that adhere to the Prudent Person Rule set forth in Sec. 7 of the Controlling Policy.

Sec. 8.13. Reconciliation Required. Cardholders shall reconcile any and all charges disclosed on the monthly statement pertaining to their assigned corporate credit account(s) to original, itemized

receipts. Cardholders shall subsequently submit the receipts to the Delegate or designee and identify any expenses for which a receipt is missing, or which was not authorized by the cardholder. Cardholder shall identify the appropriate funding source and budget code for the expenditure.

### **Sec. 10. Prohibited Use.**

Sec. 10.1. Cardholders shall not use their assigned corporate credit account(s) and card(s) in excess of the specified credit limit.

Sec. 10.2. Although not all inclusive, cardholders shall not use their assigned corporate credit account(s) and card(s) for the following types of activities and expenses.

- (a) Alcoholic beverages;
- (b) Cash advances;
- (c) Donations;
- (d) Food and beverages not associated with travel for official RMA business;
- (e) Gift cards;
- (f) Gratuities or tips;
- (g) Information technology hardware or software;
- (h) Loans;
- (i) Medical services, prescription and nonprescription drugs, or supplements;
- (j) Non-business related charges, including any expense resulting in a personal benefit;
- (k) Political contributions or lobbying activities; and
- (l) Purchases subject to Sec. 2.2 of this policy.

Sec. 10.3. Cardholders may not use their assigned corporate credit account(s) and card(s) for component, separate, or sequential purchases, or to avoid or bypass RMA's purchasing and payment policies and procedures.

### **Sec. 11. Termination of Cardholder Participation.**

A cardholder's corporate credit account(s) and card(s) may be cancelled for the following reasons:

- (a) Cardholder is no longer employed by RMA;
- (b) Cardholder changes position and their new position does not qualify for eligibility;
- (c) In using their assigned corporate card(s), cardholder materially violated this policy or other related Board policy and any pertinent administrative procedures; and
- (d) Cardholder is suspended, placed on administrative leave, or is subject to other adverse employment action.

### **Sec. 12. Required Substantiation.**

Sec. 12.1 For each transaction, cardholders shall provide:

- a. a sufficiently detailed description of the business purpose for the transaction;
- b. the names of the individuals who were part of the transaction, including the organization they represented and the official capacity in which they represented said organization; and

The original, itemized third-party receipts and other such records that fully discloses:

- a. the vendor's name, place of business and contact information;
- b. the transaction date and total amount of the purchase; and
- c. individual line items for the goods and/or services purchased and the cost of each item.

Sec. 12.2. Cardholders shall ensure that vendors provide an original, itemized receipt.

Sec. 12.3. If the cardholder fails to provide the required substantiation the cardholder may be liable for the amount(s) of the unsubstantiated transaction(s).

#### **Sec. 14. Participation in Rewards Program.**

RMA may participate in any rewards program offered by the corporate credit account issuer(s) and shall retain ownership of any rewards earned under said program and shall use any rewards received for the benefit of RMA's students.

### **PG-5.290: Fundraising**

#### **Sec. 1 Purpose of Policy.**

Through this policy, the Board of Directors (hereafter, the "Board") of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, "RMA") shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Education Code ("Tex. Ed. Code") Sections 12.115(a)(2) and 12.128;
- (b) Texas Business Organizations Code ("Tex. Bus. Org. Code");
- (c) Texas Administrative Code, Title 19 ("19 TAC"), §:100.1047(b); and
- (d) *Government Auditing Standards*.

#### **Sec. 2. Applicability of Policy.**

This policy pertains to the receipt, safeguarding and use of funds received by RMA personnel.

#### **Sec. 3. Authority Over Fiscal Matters.**

Sec. 3.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution. Refer to the Board's Policy relating to its Authority Over Fiscal Matters (the "Controlling Policy") for requirements applicable to this policy.

#### **Sec. 4. Contributions Received.**

Sec. 4.1. Cash Defined. For purposes of this policy, cash means coin, currency, money orders, cashier's checks, personal checks, and business checks, including any funds maintained in a bank, investment, savings, or other similar account.

Sec. 4.2. In-Kind Contributions. In-kind contributions are recognized and recorded at fair market value on the date received. The donor shall provide the fair market value of the donated item or service.

Sec. 4.3. Contributions to RMA Child Nutrition Program. RMA's Child Nutrition Program (CNP) staff may collect and deposit all monies received from students, or their parents or guardians, for meals and snacks. CNP staff shall also create and maintain records of all such payments to provide parents (or guardians) and students timely, accurate account balances.

Sec. 4.4. Contributions Received by Campus. Campuses are only authorized to receive contributions from donors. Moreover, campus principals may not accept a contribution governed by the Board's Policy for Gift Acceptance.

Sec. 4.5. Contributions Received from Vendors. If a vendor makes a contribution to an employee, the employee shall route the contribution to the Delegate or designee. The Delegate or designee should maintain proper control of the contribution.

Sec. 4.6. Special Events. RMA may organize special events for the purpose of raising funds from donors. RMA directors must ensure that special events yield fundraising results that exceed the cost of the event by at least fifty percent (50%).

Sec. 4.7. Use of Unrestricted Contributions. An unrestricted contribution is a contribution from a donor who did not require that any condition(s) be met so that the contribution may be used. In this instance, RMA may use an unrestricted contribution for any lawful purpose. However, unrestricted and lawful purposes do not mean "any purpose" but rather means and is limited to an authorized charitable purpose of RMA that is in furtherance of RMA's mission and in the best interest of students. The applicable grant or donation agreement should also be considered and reviewed to confirm. Any doubts on use or if it unclear, the Delegate or designee should confirm intent and/or approval in writing with the donor.

Sec. 4.8. Use of Restricted Contributions. A restricted contribution is a contribution from a donor who stipulated, in writing, that a specific condition(s) must be met so that the contribution may be used. In this instance, RMA may only use a restricted contribution as stipulated by the donor. To ensure compliance with the donor's stipulation(s), the Delegate or designee shall obtain a written agreement from the donor setting forth the specific condition(s) that must be met to enable RMA to use the contribution received.

Sec. 4.10 Compliance with Donor Agreements. The Delegate or designee should ensure compliance with any donor/grant agreement and periodically review the same.

## **Sec. 5. Tax-Exempt Letter.**

Sec. 5.2. Upon Request from Donor. RMA shall issue a tax-exempt letter to a donor upon request or as otherwise where required by law.

Sec. 5.6. Records. The Delegate or designee should create, obtain, and maintain adequate and sufficient records to support the receipt of contributions and fundraising proceeds, as required by applicable law, rule and policy.

## PG-5.310: CAPITAL ASSETS

### Sec. 1. Purpose of policy.

Through this policy, the Board of Directors (hereafter, the “Board”) of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, “RMA”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Education Code (“Tex. Ed. Code”) Sections 12.107, 12.128 and 45.105(c);
- (b) Texas Administrative Code, Title 19 (“19 TAC”), Sections 100.1001, 100.1043, and 100.1063;
- (c) Code of Federal Regulations, Title 2, Part 200 (“2 CFR 200”); and
- (d) Financial Accountability System Resource Guide.

### Sec. 2. Authority Over Fiscal Matters.

Sec. 2.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution. Refer to the Board’s Policy relating to its Authority Over Fiscal Matters (the “Controlling Policy”) for requirements applicable to this policy.

### Sec. 3. Capital Assets.

#### Sec. 3.1. Capital Assets Defined.

*Capital assets* means any tangible or intangible item of property acquired by RMA, regardless of funding source used or if donated, with a cost of \$5,000 or more and a useful life of greater than one (1) year at the time of acquisition.<sup>68</sup> The broad range of capital assets that are used in operations, include:

- (a) Real property, including land, buildings and improvements to land and buildings;
- (b) Leasehold improvements; and
- (c) Personal property, including:
  - (1) Furniture and equipment, including computer hardware;
  - (2) Computer software;
  - (3) Contract rights, intellectual property (such as copyrights, patents, and trademarks) and other intangible property;
  - (4) Vehicles; and
  - (5) Any other form of personal property recognized by Texas law.<sup>69</sup>

#### Sec. 3.2. Capitalized Costs.

Sec. 3.2.1. RMA should capitalize costs incurred for the acquisition of an asset in a manner consistent with generally accepted accounting principles. At a minimum, RMA should capitalize an asset’s purchase price and any expenses incurred for ancillary activities (e.g., site preparation,

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<sup>68</sup> 2 CFR §200.1

<sup>69</sup> 19 TAC §100.1001(6)



transportation and installation) to bring the asset to the condition and location necessary for its intended use.

Sec. 3.2.2. RMA should capitalize the fair market value of donated assets as of the date that the asset was donated.

Sec. 3.2.3. RMA should capitalize the acquisition cost of an asset or the fair market value of a donated asset if the asset at the time of acquisition or donation has a useful life of more than one (1) year.

Sec. 3.2.4. RMA should capitalize the cost of improvements to property if the improvements:

- (a) Extend the useful life of the asset;
- (b) Enhance the overall value of the asset; or
- (c) Adapt the asset so that it may be repurposed.

Sec. 3.4 Approval Required.<sup>70</sup>

The Board shall approve all purchases of real property, the purchase of construction services for a new building or the renovation of an existing building.

The Board may delegate its authority for construction, renovations or repairs pursuant to Education Code § 44.0312 by written resolution, with such delegation to a person, representatives or committee, but should provide notice of this delegation and the limits of the delegation as required by law and include the same in all request for bids, proposals or qualifications or as an addendum to a request.

#### **Sec. 4. Depreciation.**

Sec. 4.1 Authorized Method of Depreciation.

Other than the capitalized cost for land, RMA should utilize the straight-line method of depreciation to amortize the capitalized costs of all assets over their useful life. Consistent with generally accepted accounting principles, RMA should calculate the annual depreciation of capitalized costs.

Sec. 4.2 Useful Life.

Consistent with generally accepted accounting principles, the useful life of an asset means the period during which the asset is projected to generate revenue or provide other valuable service to RMA and not how long the asset will last.

#### **Sec. 5. Inventory of Assets.**

Sec. 5.1 The Delegate or designee shall maintain an inventory of all capital assets.

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<sup>70</sup> *El Paso Education Initiative, Inc. v. Amex Properties, LLC*, 385 S.W.3d 701, 706, 708 (Tex. App.–El Paso 2012, pet. denied.); 19 TAC §§ 100.1033(b)(14)(C)(ii) and 100.1101(b)-(c)

Sec. 5.2 The Delegate or designee shall affix upon assets a permanent, machine-readable label that clearly identifies the asset as RMA property and uniquely accounts for the asset in RMA's inventory records.

Sec. 5.3 The Delegate or designee(s) should conduct a physical inventory of assets every two years and shall ensure appropriate corrective or other measures are undertaken for any assets that are not located.

Sec. 5.4 RMA will maintain accurate, complete, and up-to-date records of all capital assets through physical counts, the review of purchase records, and other methods, as deemed appropriate and necessary.

## **Sec. 6. Safeguarding of Assets.**

Sec. 6.1 The Delegate or designee shall ensure that assets are safeguarded.

## **Sec. 7. Disposition of Capital Assets.**

Sec. 7.1 Except for real property, the Delegate is authorized, by any means commonly used, to dispose of assets that have concluded their useful life, are obsolete or deemed unnecessary, are damaged beyond repair or deemed too costly to repair or are lost or stolen. If an asset is still serviceable, the Delegate or designee shall first determine if a need for the asset exists elsewhere within RMA before disposing of the asset.

Sec. 7.2 The Board shall authorize any disposal of assets through a donation to another charitable, tax-exempt organization. For donations to charitable organizations, the Board shall obtain a written assurance from the organization to which the asset is being donated that it will use the donated asset for a public purpose and shall stipulate that, as a condition of the donation, ownership of the asset shall revert to RMA if the recipient organization discontinues using the asset for a public purpose.

Sec. 7.3 If the asset is disposed of through a sale, the Delegate or designee shall sell the asset for fair market value and shall attribute any proceeds to the originating fund source. As a condition of selling the asset, RMA shall make no warranties or guarantees concerning the continued functionality of the asset.

Sec. 7.4 In the following order of precedence, the Delegate or designee may sell assets to students, teachers and teacher aides, parents, other RMA personnel, and the public at large. In doing so, the Delegate or designee shall not act in a manner that is or appears to be preferential to any one individual, except as indicated in the order of precedence set forth in this section.

Sec. 7.5 If the asset has no value, the Delegate or designee may dispose of the asset as deemed administratively expedient.<sup>71</sup>

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<sup>71</sup> An administratively expedient disposal does not result in any additional administrative process beyond documenting the disposal of the asset.

Sec. 7.6 The Delegate or designee may adopt a system for the documented disposal of assets, including the Delegate’s approval for the disposal of any capital asset with a fair market or residual value exceeding \$5,000 per unit.

Sec. 7.7 Prior to the final disposal of an asset, the Delegate or designee shall remove or cause to have removed any RMA emblems and other identifying information, such as license plates and inventory tags, from the asset. Additionally, any computing device shall have its storage mediums permanently erased of any software owned or subscribed to by RMA and of any data, especially personally identifiable data pertaining to students and staff.

Sec. 7.8 RMA personnel are prohibited from receiving, through sale or otherwise, any asset that is to be disposed except as established under this policy and pursuant to the administrative procedures adopted under this policy.

## **PG-5.320: Investment of funds**

### **Sec. 1. Purpose of Policy.**

Through this policy, the Board of Directors (hereafter, the “Board”) of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, “RMA”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Business Organizations Code (“Tex. Bus. Org. Code”) Sections 3.101 and 22.201;
- (b) Texas Education Code (“Tex. Ed. Code”) Section 12.1053(b)(3);
- (c) Texas Government Code (“Tex. Gov’t. Code”) Sections 2256.009 through 2256.016;
- (d) Texas Administrative Code, Title 19 (“19 TAC”), §100.1045; and
- (e) Financial Accountability System Resource Guide (“FASRG”).

### **Sec. 2. Authority Over Fiscal Matters.**

Sec. 2.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution. Refer to the Board’s Policy relating to its Authority Over Fiscal Matters (the “Controlling Policy”) for requirements applicable to this policy.

### **Sec. 3. Investment Objectives.<sup>72</sup>**

In general, the Board and Delegate shall observe the following objectives when investing funds:

- (a) Preservation and safety of principal;
- (b) Liquidity; and
- (c) Yield.

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<sup>72</sup> 19 TAC §100.1045(c)(1)

### **Sec. 5. Investment Records.**<sup>73</sup>

The Delegate or designee should ensure that RMA creates and maintains accurate and complete records of any and all investments of RMA funds.

### **Sec. 6. Contractual Considerations.**<sup>74</sup>

The Delegate should ensure that investments are made in accordance with any applicable provision or covenant contained in a debt instrument, bond indenture, or similar agreement.

### **Sec. 7 Authorization Thresholds.**<sup>75</sup>

Subject to the Board's final authority over the use of public funds, the Delegate or designee is authorized to invest an amount not exceeding \$50,000 for a period not exceeding one (1) year in the authorized investments identified in this policy. Otherwise, the Delegate or designee shall recommend to the Board any investment of surplus cash exceeding \$50,000 or for a period exceeding one year.

### **Sec. 8. Authorized Investments.**

The Board and Delegate or designee may purchase, sell and invest public funds in the following authorized investments.<sup>76</sup>

Sec. 8.1. Obligations of or Guaranteed by a Governmental Entity.<sup>77</sup> The following are authorized investments under this subsection.

- (a) Obligations, including letters of credit, of the United States or its agencies and instrumentalities, including the Federal Home Loan Banks.
- (b) Direct obligations of the State of Texas or its agencies and instrumentalities.
- (c) Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States.
- (d) Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the State of Texas, the United States, or their respective agencies or instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation ("FDIC") or by the explicit full faith and credit of the United States.
- (e) Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent.
- (f) Bonds issued, assumed, or guaranteed by the State of Israel.
- (g) Interest-bearing banking deposits that are guaranteed or insured by:
  - (1) the FDIC or its successor; or
  - (2) the National Credit Union Share Insurance Fund ("NCUSIF") or its successor.
- (h) Interest-bearing banking deposits other than those described by (g) above if:

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<sup>73</sup> Tex. Bus. Org. Code §22.352(a); Tex. Ed. Code §12.115(a)(2); 19 TAC §§ 100.1033(c)(1)(A)(vi)100.1047(b)(1)

<sup>74</sup> 19 TAC §100.1045(b)(3)

<sup>75</sup> 19 TAC §100.1033(b)(14)(C)(ii); Consistent with Tex. Gov't. Code §2256.003

<sup>76</sup> Tex. Ed. Code §12.1053(b)(3)

<sup>77</sup> Tex. Gov't. Code §2256.009(a)

- (1) the funds invested in the banking deposits are invested through:
  - (A) a broker with a main office or branch office in the State of Texas that RMA selects from a list the Board, or, if so designated, an investment committee, adopts as required by Tex. Gov't. Code §2256.025; or
  - (B) a depository institution with a main office or branch office in the State of Texas that RMA selects;
- (2) the broker or depository institution selected arranges for the deposit of the funds in the banking deposits in one or more federally insured depository institutions, regardless of where located, for RMA's account;
- (3) the full amount of the principal and accrued interest of the banking deposits is insured by the United States or an instrumentality of the United States; and
- (4) RMA appoints as its custodian of the banking deposits issued for RMA's account:
  - (A) the depository institution selected;
  - (B) an entity described by Tex. Gov't. Code §2257.041(d); or
  - (C) a clearing broker dealer registered with the Securities and Exchange Commission ("SEC") and operating under SEC Rule 15c3-3.

Sec. 8.2. Prohibited Investments.<sup>78</sup> The following investments are prohibited.

- (a) Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal.
- (b) Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest.
- (c) Collateralized mortgage obligations that have a stated final maturity date of greater than ten (10) years.
- (d) Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

Sec. 8.3. Certificates of Deposit and Share Certificates.<sup>79</sup> A certificate of deposit or share certificate is an authorized investment under this policy if the certificate is issued by a depository institution that has its main office or a branch office in the State of Texas and is:

- (a) guaranteed or insured by the FDIC or its successor or the NCUSIF or its successor;
- (b) mortgage-backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, and
- (c) secured accordance with Tex. Gov't. Code Chapter 2257 or in any other manner and amount provided by law for deposits of RMA.

Sec. 8.4. Other Authorized Form for Certificates of Deposit and Share Certificates.<sup>80</sup> An investment in a certificate of deposit is authorized under this subsection if it is made under the following conditions:

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<sup>78</sup> Tex. Gov't. Code §2256.009(b)

<sup>79</sup> Tex. Gov't. Code §2256.010(a)

<sup>80</sup> Tex. Gov't. Code §2256.010(b)

- (a) the funds are invested by RMA entity through;
  - (1) a broker that has its main office or a branch office in the State of Texas and is selected from a list adopted by RMA in accordance with Tex. Gov't. Code §2256.025; or
  - (2) a depository institution that has its main office or a branch office in the State of Texas and that is selected by RMA;
- (b) the broker or the depository institution selected by RMA that arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of RMA;
- (c) the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States; and
- (d) RMA appoints the depository institution as an entity described by Tex. Gov't. Code §2257.041(d), or a clearing broker-dealer registered with the SEC and operating pursuant to SEC Rule 15c3-3 as custodian for RMA with respect to the certificates of deposit issued for the account of RMA.

Sec. 8.5. Repurchase Agreements.<sup>81</sup> A fully collateralized repurchase agreement is an authorized investment under this subsection if the repurchase agreement:

- (a) has a defined termination date;
- (b) is secured by a combination of cash and obligations authorized in this policy;
- (c) requires the securities being purchased by RMA or cash held by RMA to be pledged to RMA, held in RMA's name, and deposited at the time the investment is made with RMA or with a third party selected and approved by RMA; and
- (d) is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in the State of Texas.

Sec. 8.5.1. *Repurchase Agreement Defined*. For purposes of this policy, “repurchase agreement” means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations described in this policy, at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement.

Sec. 8.5.2. *Term of Agreement*. The term of any reverse security repurchase agreement may not exceed ninety (90) days after the date the reverse security repurchase agreement is delivered.

Sec. 8.5.3. *Use of Invested Funds*. Money received by RMA under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

Sec. 8.6 Securities Lending Programs.<sup>82</sup> A securities lending program is an authorized investment if it meets the following conditions:

- (a) the value of the securities loaned is at least 100% collateralized, including accrued income;

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<sup>81</sup> Tex. Gov't. Code §2256.011

<sup>82</sup> Tex. Gov't. Code §2256.0115

- (b) a loan made under the program must allow for termination at any time;
- (c) a loan made under the program is secured by:
  - (1) pledged securities described in this policy;
  - (2) pledged irrevocable letters of credit issued by a bank that is organized and existing under the laws of the United States or any other state and continuously rated by at least one nationally recognized investment rating firm at not less than “A” or its equivalent; or
  - (3) cash invested in accordance with this policy;
- (d) the terms of the loan require that the securities being held as collateral be:
  - (1) pledged to RMA;
  - (2) held in RMA’s name; and
  - (3) deposited at the time the investment is made with RMA or with a third party selected or approved by the Board;
- (e) the loan is placed through a primary government securities dealer, as defined at 5 CFR §6801.102(f), as that regulation existed on September 1, 2003, or a financial institution doing business in the State of Texas; and
- (f) the agreement to lend securities has a term of one year or less.

Sec. 8.7. Banker’s Acceptances.<sup>83</sup> A banker’s acceptance is an authorized investment if it:

- (a) has a stated maturity of 270 days or fewer from the date of its issuance;
- (b) will be, in accordance with its terms, liquidated in full at maturity;
- (c) is eligible for collateral for borrowing from a Federal Reserve Bank; and
- (d) is accepted by a bank organized and existing under the laws of the United States or any state, if the short-term obligations of the bank, or of a bank holding company of which the bank is the largest subsidiary, are rated not less than “A-1” or “P-1” or an equivalent rating by at least one nationally recognized credit rating agency.

Sec. 8.8. Commercial Paper.<sup>84</sup> Commercial paper is an authorized investment if it:

- (a) has a stated maturity of 365 days or fewer from the date of issuance; and
- (b) is rated not less than “A-1” or “P-1” or an equivalent rating by at least two (2) nationally recognized credit rating agencies or one (1) nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

Sec. 8.9. Mutual Funds.

Sec. 8.9.1. *No-load Money Market Mutual Funds.*<sup>85</sup> No-load money market mutual funds are an authorized investment if they:

- (a) are registered with and regulated by the SEC;
- (b) provide RMA with a prospectus and other information required by the Securities and Exchange Act of 1934 (United States Code, Title 15 (“15 USC), Section 78a, et seq.) or the Investment Company Act of 1940 (15 USC §80a-1, et seq.); and
- (c) complies with federal SEC Rule 2a-7 (17 CFR §270.2a-7), promulgated under the Investment Company Act of 1940 (15 USC §80a-1 et seq.).

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<sup>83</sup> Tex. Gov’t. Code §2256.012

<sup>84</sup> Tex. Gov’t. Code §2256.013

<sup>85</sup> Tex. Gov’t. Code §2256.014(a)

Sec. 8.9.2. *No-load Mutual Funds.*<sup>86</sup> No-load mutual funds are an authorized investment if they:

- (a) are registered with the SEC;
- (b) have an average weighted maturity of less than two (2) years; and
- (c) have a duration of one (1) year or more and either:
  - (1) is invested exclusively in obligations approved under Tex. Gov't. Code, Chapter 2256, Subchapter A; or
  - (2) the investment portfolio is limited to investment grade securities, excluding asset-backed securities.

Sec. 8.9.3. *Prohibited Investments.*<sup>87</sup> RMA may not invest:

- (a) in the aggregate more than 15% of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service, in no-load mutual funds;
- (b) any portion of bond proceeds, reserves, and funds held for debt service, in no-load market mutual funds; or
- (c) its funds or funds under its control, including bond proceeds and reserves and other funds held for debt service, in any one mutual fund described in this policy in an amount that exceeds 10% of the total assets of the mutual fund.

Sec.8.10 Guaranteed Investment Contracts.<sup>88</sup> A guaranteed investment contract is an authorized investment for bond proceeds if the guaranteed investment contract:

- (a) has a defined termination date;
- (b) is secured by obligations authorized under this policy, excluding those obligations described in this policy, in an amount at least equal to the amount of bond proceeds invested under the contract; and
- (c) is pledged to RMA and deposited with RMA or with a third party selected and approved by the Board.

Sec. 8.10.1. *Qualifying Requirements.* To be eligible as an authorized investment, the following requirements must be met.

- (a) The Board specifically authorizes the guaranteed investment contract as an eligible investment in a resolution authorizing the issuance of bonds.
- (b) RMA must receive bids from at least three (3) separate providers with no material financial interest in the bonds from which the proceeds were received.
- (c) RMA must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received.
- (d) The price of the guaranteed investment contract must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested.
- (e) The provider must certify the administrative costs reasonably expected to be paid to third parties in connection with the guaranteed investment contract.

Sec. 8.10.2. *Limitation to Contract Term.* Bond proceeds, other than bond proceeds representing reserves and funds maintained for debt service purposes, may not be invested in a guaranteed investment contract with a term longer than five (5) years from the date of issuance of the bonds.

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<sup>86</sup> Tex. Gov't. Code §2256.014(b)

<sup>87</sup> Tex. Gov't. Code §2256.014(c)

<sup>88</sup> Tex. Gov't. Code §2256.015



Sec. 8.11. Investment Pools.<sup>89</sup> An investment pool is an authorized investment if:

- (a) the Board authorizes the investment in the particular pool through policy or resolution; and
- (b) the investment pool only invests the funds that it receives in the investments authorized under Tex. Gov't. Code Chapter 2256, Subchapter A.

Sec. 8.11.1. *Receipt of Required Disclosure*. In order to invest in an investment pool, the Delegate or his designee should receive an offering circular or other similar disclosure instrument containing, at a minimum, the following information:

- (a) the types of investments in which money is allowed to be invested;
- (b) the maximum average dollar-weighted maturity allowed, based on the stated maturity date, of the pool;
- (c) the maximum stated maturity date any investment security within the portfolio has;
- (d) the objectives of the pool;
- (e) the size of the pool;
- (f) the names of the members of the advisory board of the pool and the dates their terms expire;
- (g) the custodian bank that will safekeep the pool's assets;
- (h) whether the intent of the pool is to maintain a net asset value of one dollar and the risk of market price fluctuation;
- (i) whether the only source of payment is the assets of the pool at market value or whether there is a secondary source of payment, such as insurance or guarantees, and a description of the secondary source of payment;
- (j) the name and address of the independent auditor of the pool;
- (k) the requirements to be satisfied for RMA to deposit funds in and withdraw funds from the pool and any deadlines or other operating policies required for RMA to invest funds in and withdraw funds from the pool;
- (l) the performance history of the pool, including yield, average dollar-weighted maturities, and expense ratios; and
- (m) the pool's policy regarding holding deposits in cash.

Sec. 8.11.2. *Continued Receipt of Required Disclosures*. In order to continue investing in the investment pool, the Superintendent or his designee must receive the following information:

- (a) investment transaction confirmations; and
- (b) a monthly report that contains, at a minimum, the following information:
  - (1) the types and percentage breakdown of securities in which the pool is invested;
  - (2) the current average dollar-weighted maturity, based on the stated maturity date, of the pool;
  - (3) the current percentage of the pool's portfolio in investments that have stated maturities of more than one (1) year;
  - (4) the book value versus the market value of the pool's portfolio, using amortized cost valuation;
  - (5) the size of the pool;
  - (6) the number of participants in the pool;
  - (7) the custodian bank that is safekeeping the assets of the pool;

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<sup>89</sup> Tex. Gov't. Code §2256.016

- (8) a listing of RMA’s daily transaction activity;
- (9) the yield and expense ratio of the pool, including a statement regarding how the yield is calculated;
- (10) the portfolio managers of the pool; and
- (11) any changes or addenda to the offering circular.

Sec. 8.11.3. *Yield Calculation.* In this section, for purposes of an investment pool for which a \$1.00 net asset value is maintained, "yield" shall be calculated in accordance with regulations governing the registration of open-end management investment companies under the Investment Company Act of 1940, as promulgated from time to time by the SEC.

Sec. 8.11.4. *Monitoring of Investment Pool Compliance.* The Superintendent or his designee shall monitor the investment pool’s compliance with Sec. 9.9.1, 9.9.2 and 9.9.3 above and Tex. Gov’t. Code § 2256.016(f)-(k).

**Sec. 9. Report to the Board<sup>90</sup>**

The Delegate may provide to the Board a report disclosing the status of any and all amounts invested under this policy.

**PG-5.410: PAYROLL ADVANCES**

RMA does not issue payroll advances or loans to employees.

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

**PG-5.510: PURCHASING AND CONTRACTING**

**Sec. 1. Purpose of Policy.**

Through this policy, the Board of Directors (hereafter, the “Board”) of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RMA (hereafter, “RMA”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Business Organizations Code (“Tex. Bus. Org. Code”) Sections 3.101, 22.201, and 22.221;
- (b) Texas Education Code (“Tex. Ed. Code”) Sections 12.104(b)(1), 12.1053(b)(2), 12.107(a), 12.115(a)(2) 12.121 and Chapter 44, Subchapter B ("Chapter 44");
- (c) Texas Government Code ("Tex. Gov't. Code") Chapter 2254, Subchapter A and Chapter 2269 ("Chapter 2269");
- (d) Texas Administrative Code, Title 19 (“19 TAC”), Chapter 100, notably §§ 100.006, 100.1033, 100.1047(b) and 100.1101;
- (e) Code of Federal Regulations, Title 2, Part 200 ("2 CFR 200"); and
- (f) Financial Accountability System Resource Guide (“FASRG”); and
- (g) *Standards for Internal Control in the Federal Government.*

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<sup>90</sup> FASRG Module 2

### **Sec. 3. Authority Over Fiscal Matters.**

Sec. 3.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution.

### **Sec. 4. Definitions.**

Sec. 4.1. "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.<sup>91</sup>

Sec. 4.4. "Non-professional services" means any service not specifically identified as a professional service under Sec. 4.6 of this policy.

Sec. 4.5. "Personal property" means an interest in tangible and intangible property other than real property, including:

- (a) furniture, equipment, supplies, and other goods;
- (b) computer hardware and software;
- (c) contract rights, intellectual property such as patents, and other intangible property;
- (d) cash, currency, funds, bank accounts, securities, and other investment instruments;
- (e) the right to repayment of a loan, advance, or prepayment or to the payment of other receivables; and
- (f) any other form of personal property recognized by Texas law, such as vehicles.<sup>92</sup>

Sec. 4.6. "Professional services" means services:

- (a) Within the scope of the practice, as defined by state law, of:
  - (1) Accounting;
  - (2) Architecture;
  - (3) Landscape architecture;
  - (4) Land surveying;
  - (5) Medicine;
  - (6) Optometry;
  - (7) Professional engineering;
  - (8) Real estate appraising; or
  - (9) Professional nursing; or
- (b) Provided in connection with the professional employment or practice of a person who is licensed or registered as:
  - (1) A certified public accountant;
  - (2) An architect;
  - (3) A landscape architect;
  - (4) A land surveyor;
  - (5) A physician, including a surgeon;
  - (6) An optometrist;
  - (7) A professional engineer;

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<sup>91</sup> Tex. Ed. Code §44.032(a)(1)

<sup>92</sup> 19 TAC §100.1001(6), 2 CFR §200.1

- (8) A state certified or state licensed real estate appraiser; or
- (9) A registered nurse or

(c) Provided by a person lawfully engaged in interior design.<sup>93</sup>

Sec. 4.7. “Public works” means the construction, alteration, renovation, or repair of a public building, structure, road, highway, or other improvement or addition to real property.<sup>94</sup>

Sec. 4.8. “Separate purchases” means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.<sup>95</sup>

Sec. 4.9. “Sequential purchases” means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.<sup>96</sup>

Sec. 4.10. “Services” means professional and non-professional services.

### **Sec. 5. General Requirements Applicable to All Purchases.**

The policy requirements established under this Sec. 5 shall apply to all purchases of goods and services regardless of fund source used.

#### **Sec. 5.1. Authority to Procure Goods and Services.<sup>97</sup>**

Sec. 5.1.1. The Delegate or designee may approve the procurement of goods and services conforming with this policy and applicable law up to the amounts authorized by the Board.

Sec. 5.1.3. The Delegate or designee may not approve a procurement of goods and services failing to conform with this policy and applicable law.

#### **Sec. 5.2. Benefit of the Students.<sup>98</sup>**

RMA shall only acquire goods and services for the benefit of RMA’s students and that provide best value to the students.

#### **Sec. 5.4. Conflicted,<sup>99</sup> Interested<sup>100</sup> and Related<sup>101</sup> Party Transactions.**

Sec. 5.4.1. The Board shall approve or disapprove any business arrangement or transaction with an individual that is an officer and any conflicted, interested or related party, as defined in other Board policy or applicable law.

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<sup>93</sup> Tex. Gov’t. Code §2254.002(2)

<sup>94</sup> Tex. Gov’t. Code §2269.001(6); Tex. Local Gov’t. Code §271.024

<sup>95</sup> Tex. Ed. Code §44.032(a)(2)

<sup>96</sup> Tex. Ed. Code §44.032(a)(3)

<sup>97</sup> Tex. Ed. Code §44.052

<sup>98</sup> Tex. Ed. Code §12.107(a); 19 TAC §100.1043(a)

<sup>99</sup> Tex. Ed. Code §12.1054; 19 TAC §§ 100.1131 through 100.1135

<sup>100</sup> 19 TAC §100.1047(f)

<sup>101</sup> Tex. Ed. Code §12.1166

Sec. 5.4.2. RMA may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

**Sec. 5.7. Employee Purchases Prohibited.**<sup>102</sup>

RMA employees are prohibited from conducting any transaction that results in the purchase of goods and services and that obligates RMA funds and otherwise results in the expenditure of RMA funds except as provided in this and other Board policy. If an RMA employee fails to follow this policy to purchase goods and services, the employee may be financially responsible for any expenses incurred regardless of the benefit to RMA and its students.

**Sec. 5.8. Officer Responsible.**

Each RMA officer shall be responsible for any and all expenses from the budget approved for their department or campus. Each officer (or designee) must work with the Delegate or designee to purchase goods and services pursuant to this policy. Alternatively, the officer may use the corporate credit account(s) to purchase goods and services up to the limits established in this policy.

**Sec. 5.9. Purchase Order System.**<sup>103</sup>

The Delegate or designee shall establish and maintain a purchase order system. The purchase order shall serve as the formal method for procuring goods and/or services from a vendor and shall have the effect of obligating RMA to remit payment to the vendor upon receipt of the goods and/or services purchased.

Sec. 5.9.1. Required Approvals. Only the Delegate or designee shall be authorized to approve purchase orders.

Sec. 5.9.2. Issuance Prohibited. RMA employees may not issue a purchase order to a vendor unless it has been approved by the Delegate or designee.

Sec. 5.9.3. Failure to Properly Issue. If an RMA employee issues a purchase order to a vendor without the required approvals the employee may be financially responsible for the purchase.

**Sec. 5.10. Qualified Vendors.**<sup>104</sup>

Sec. 5.10.1. Richard Milburn Academy directors and employees may only procure goods and/or services from qualified vendors.

Sec. 5.10.2. For purposes of this policy, a qualified vendor is a responsible contractor possessing the ability to perform successfully under the terms and conditions of procurement.

Sec. 5.10.3. To provide fair and open competition for each procurement, RMA directors and employees may consider the following matters in determining if a vendor is qualified:

- (a) Contractor integrity.
- (b) Extent to which the goods or services meet RMA's needs.
- (c) Financial and technical resources.

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<sup>102</sup> Ibid.

<sup>103</sup> Texas Business and Commerce Code §2.206(a)(2)

<sup>104</sup> Tex. Ed. Code §44.031(b); 2 CFR §200.318(h)

- (d) Quality of the vendor's goods or services.
- (e) Record of past performance, including:
  - (1) Reputation of the vendor and of the vendor's goods or services.
  - (2) Vendor's past relationship with RMA

Sec. 5.10.4. The Delegate or designee should maintain a list of qualified vendors to facilitate the procurement process.

**Sec. 5.13. Separate, Sequential or Component Purchases Prohibited.**<sup>105</sup>

The Delegate or designee and RMA employees are prohibited from making or authorizing separate, sequential, or component purchases to avoid the requirements of this policy.

**Sec. 5.14. Signature Authority.**<sup>106</sup>

Sec. 5.14.1. Only the Delegate or designee may execute contracts or other written legal agreements that obligate RMA to disburse funds for the receipt of goods and/or services with a cost or value of less than the acquisition threshold.

Sec. 5.14.2. Only the Board's designee(s) may execute a contract for goods and/or services with a cost or value exceeding the acquisition threshold.

**Sec. 6. Authorized Procurement Methods.**

RMA directors and employees shall procure goods and services as set forth in this Sec. 6.

**Sec. 6.1. Purchases with Local Funds.**<sup>107</sup>

Sec. 6.1.1. No Method Required. RMA directors and employees may procure goods and services valued at less than the acquisition threshold through the most expedient manner available.

**Sec. 6.2. Purchases with State Funds.**<sup>108</sup>

Sec. 6.2.1. No Method Required. RMA directors and employees may procure goods and services valued at less than the acquisition threshold through the most expedient manner available.

**Sec. 6.4. Purchases Through Cooperative.**<sup>109</sup>

Sec. 6.4.1 General. RMA directors and employees may use local, state or federal funds to procure goods or services through a cooperative that provides written assurance of compliance with purchasing law.

Sec. 6.4.3. Exception. In the event that a participating vendor in the purchasing cooperative program quotes a lower price for the same goods or services, RMA directors and employees may procure the goods and services using the vendor's direct quote.

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<sup>105</sup> Tex. Ed. Code §44.032

<sup>106</sup> *Ibid.*

<sup>107</sup> Tex. Ed. Code §12.115(a)(2)

<sup>108</sup> Tex. Ed. Code §§ 12.1053 and 12.115(a)(2); FASRG

<sup>109</sup> Tex. Ed. Code §§ 12.1058(a)(1) and 12.115(a)(2); FASRG; 2 CFR §200.318(e)

## **Sec. 7. Purchase of Professional Services.<sup>110</sup>**

### **Sec. 7.1. Selection of Provider.**

Sec. 7.1.1. The Board and Delegate or designee should not select a provider of professional services or a group or association of providers or award a contract for professional services on the basis of competitive bids submitted for the contract or for the professional services.

Sec. 7.1.2. The Board and Delegate or designee may select the provider for the professional service to be procured based on the following criteria:

- (a) The provider's demonstrated competence and qualifications to perform the services; and
- (b) The fairness and reasonableness of the provider's price.

Sec. 7.2. Contract for Professional Services of Architect, Engineer or Surveyor.

Sec. 7.2.1. In procuring architectural, engineering, or land surveying services, the Board and Delegate or designee should:

- (a) Select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and
- (b) Then attempt to negotiate with that provider a contract at a fair and reasonable price.

Sec. 7.2.2. If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the Board and Delegate or designee shall:

- (a) End negotiations with that provider;
- (b) Select the next most highly qualified provider;
- (c) Attempt to negotiate a contract with that provider at a fair and reasonable price; and
- (d) Continue the process described in subsections (a) through (c) to select and negotiate with providers until a contract is entered into.

## **Sec. 8. Procurement of Public Works.**

Public Works Contracts – Chapter 44 of the Education Code

**SECTION 8.1. Applicable Law.** In awarding contracts that will involve the construction, repair, or renovation of a structure, road, highway, or other improvement or addition to real property ("construction services"), RMA will comply with Chapter 44, Subchapter B, of the Education Code. Pursuant to Chapter 44, Subchapter B, of the Education Code, RMA shall select a method pursuant to Chapter 2269 of the Texas Government Code for construction services.

**SECTION 8.2. Bidding Threshold.** This policy applies when an expenditure of more than \$50,000.00 in public funds is required for construction services.

**SECTION 8.3. Delegation of Authority.** The Board of Directors may/may not delegate any or all of its authority under this Policy to the Superintendent. The act of delegating authority itself shall be accomplished through an act of the Board of Directors at a lawfully held meeting in compliance with the Texas Open Meetings Act. Upon delegation of such authority, the

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<sup>110</sup> Tex. Ed. Code §12.1053(b)(2); Tex. Gov't. Code Chapter 2254, Subchapter A

Superintendent shall have and may exercise the power and authority of the Board of Directors pursuant to this Policy.

- (a) If the Board of Directors has delegated any of its authority under this Policy, the Superintendent shall ensure that any request for bids (RFB), proposals (RFP), or qualifications (RFQ) issued by RMA, shall provide notice of the delegation, the limits of such delegation, and include the name and title of each person to whom authority has been delegated. If the Superintendent fails to include such notice, any action taken under this Policy by the Superintendent must be ratified by the Board through formal action at a meeting held in compliance with the Texas Open Meetings Act.

SECTION 8.4. Selection of Construction Methodology. For each expenditure of more than \$50,000.00 for construction services, the Board of Directors shall determine the procurement method that provides the best value to RMA in accordance with applicable law. The procurement methods available to RMA are as follows:

- (a) Competitive Bidding;
- (b) Competitive Sealed Proposals;
- (c) Construction Manager-Agent;
- (d) Construction Manager-at-Risk;
- (e) Design-Build Contract; and
- (f) Job Order Contracts.

SECTION 8.5. Use of Architect or Engineer; Use of Other Professional Services. The selection or designation of any architect or engineer, or the procurement of construction materials, engineering services, testing and inspection services, or verification testing services shall be made on the basis of demonstrated competence and qualifications in accordance with Section 3 of this Policy.

SECTION 8.6. Sealed Bids. The Superintendent shall ensure that all bids, proposals or qualifications are sealed.

SECTION 8.7. Contract Award. In determining the award, regardless of the procurement method selected, the Board must consider any existing laws, including any criteria, related to historically underutilized businesses and/or existing laws or criteria related to the use of women, minority, small or disadvantaged businesses. The Board may take into account several factors, including:

- (a) Price;
- (b) Experience and Reputation;
- (c) Quality of Goods and Services;
- (d) Impact on the ability of RMA to comply with rules relating to historically underutilized businesses;
- (e) Safety Record;
- (f) Proposed Personnel;
- (g) Financial capability appropriate to the size and scope of the project; and
- (h) Any other relevant factor provided it is specifically listed in the RFB, RFP, or RFQ.

The Board shall make its selection based on the applicable criteria for the procurement method and document the basis for its selection. The Superintendent shall ensure that the evaluations are made public not later than the seventh (7th) day after the date any contract is awarded.



SECTION 8.8. Advertisement/Notice of Procurement Request and Notice. The Superintendent shall ensure compliance with any advertisement or notice required by Chapter 2269, Texas Government Code upon the issuance of a request for proposal, bid or qualifications, and that any such notice contains the following:

- (a) The time by when and the place where the bids, proposals, or responses will be received and opened; and
- (b) The criteria for the particular procurement method that will be used to evaluate the bids, proposals or responses.

## **PG-5.520: CRIMINAL HISTORY CHECKS FOR CONTRACTED SERVICES**

### **Sec. 1. Definitions**

“Continuing duties related to contracted services” are work duties that are performed pursuant to a contract to provide services to RMA on a regular, repeated basis rather than infrequently or one-time only.

- (a) A “covered contract employee” is an individual who:
  - 1. Is employed or offered employment by a service contractor or a subcontractor of a service contractor, is an individual independent contractor of RMA, or is an individual subcontractor of a service contractor;
  - 2. Has or will have continuing duties related to the contracted services;
  - 3. Has or will have direct contact with students; and
  - 4. Is not a student of (or enrolled in) RMA.

“Direct contact with students” is the contact that results from activities that provide substantial opportunity for verbal or physical interaction with students that is not supervised by a certified educator or other professional RMA employee. Contact with students that results from services that do not provide substantial opportunity for unsupervised interaction with a student or students, such as addressing an assembly, officiating a sports contest, or judging an extracurricular event, is not, by itself, direct contact with students. However, direct contact with students does result from any activity that provides substantial opportunity for unsupervised contact with students, which might include, without limitation, the provision of coaching, tutoring, or other services to students.

A “contracting entity” is an entity that contracts directly with RMA to provide services to RMA. However, when conducting an investigation or intervention regarding an alleged crime or act of child abuse on an RMA campus, a law enforcement agency or the Department of Family and Protective Services is not a contracting entity, and the investigator or intervener is not a covered contract employee.

A “subcontracting entity” is an entity that contracts with another entity that is not RMA to provide services to RMA or shared services arrangement.

*Education Code 22.0834(p); 19 TAC 153.1101(2)-(3), (7), (10).*

## **Sec. 2. Contractor Responsibilities**

### **Sec. 2.1. Employed Before January 1, 2008**

An entity that contracts with RMA to provide services and any subcontractor of the entity shall obtain from any law enforcement or criminal justice agency or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), all criminal history record information that relates to an employee of the entity who is employed before January 1, 2008, and who is not subject to a national criminal history record information review under Education Code 22.0834(b) if:

1. The employee has continuing duties related to the contracted services; and
2. The employee has direct contact with students.

### **Sec. 2.2 Employment Offered on or After January 1, 2008**

A person who, on or after January 1, 2008, is offered employment by an entity that contracts with RMA or any subcontractor of the entity must submit to a national criminal history record information review if:

1. The employee or applicant has or will have continuing duties related to the contracted services; and
2. The employee or applicant has or will have direct contact with students.

The person must submit to the review before being employed or serving in a capacity described above.

An entity contracting with RMA and any subcontractor of the entity shall obtain all criminal history record information that relates to a person described above through the criminal history clearinghouse as provided by Government Code 411.0845.

A contracting entity shall require that a subcontracting entity obtain all criminal history record information that relates to a person described above.

### **Sec. 2.3. Certification to RMA**

The entity and any subcontractor of the entity shall certify to RMA that it received all of the criminal history record information required above. The entity and any subcontractor of the entity shall also certify that it will take reasonable steps to ensure that the conditions or precautions that have resulted in a determination that any person is not a covered contract employee continue to exist throughout the time that the contracted services are provided.

A subcontracting entity must certify to RMA and the contracting entity that the subcontracting entity has obtained all criminal history record information that relates to an employee described above at “Contractor Responsibilities: Employment Offered on or After January 1, 2008” and has obtained similar written certifications from the subcontracting entity’s subcontractors.

A contracting entity and any subcontractor of the entity shall provide RMA, at its request, the information necessary for RMA to obtain criminal history record information for all covered contract employees.

A contracting entity complies with the requirements of this section if the contracting entity obtains a written statement from each subcontracting entity certifying that the subcontracting entity has obtained the required criminal history record information for employees of the

subcontracting entity and the subcontracting entity has obtained certification from each of the subcontracting entity's subcontractors.

#### **Sec. 2.4. Disqualifying Conviction**

A contracting or subcontracting entity may not permit a person described above at "Contractor Responsibilities: Employed Before January 1, 2008" to provide services at any RMA campus if the employee has been convicted of, or placed on deferred adjudication community supervision for, a felony or misdemeanor offense that would prevent a person from being employed under Education Code 22.085(a).

A contracting entity shall not permit a covered contract employee to provide services at any RMA campus if the employee has been convicted of, or placed on deferred adjudication community supervision for, a felony or misdemeanor offense that would prevent a person from being employed under Education Code 22.085.

### **Sec. 3. Richard Milburn Academy Responsibilities**

#### **Sec. 3.1. Employed Before January 1, 2008**

RMA may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person described above at "Contractor Responsibilities: Employed Before January 1, 2008."

#### **Sec. 3.2. Employment Offered on or After January 1, 2008**

RMA may obtain the criminal history record information of a person described above at "Contractor Responsibilities: Employment Offered on or After January 1, 2008" through the criminal history clearinghouse as provided by Government Code 411.0845.

#### **Sec.3.3. Certification from Contractor**

RMA shall ensure that each of its service contractors certify that the service contractor has obtained all required criminal history record information for covered contract employees.

#### **Sec. 3.4. Disqualifying Conviction**

RMA may not allow a covered contract employee to serve at RMA if RMA obtains information through a criminal history record information review that the covered contract employee has been convicted of, or placed on deferred adjudication community supervision for, a felony or misdemeanor offense that would prevent a person from being employed under Education Code 22.085. RMA may adopt a stricter standard.

#### **Sec. 3.5. SBEC Notification**

Pursuant to 19 TAC 249.14(d)(1), if RMA obtains information that a covered contract employee who holds a certificate issued by the State Board for Educator Certification (SBEC) has a reported criminal history, the Superintendent or the Superintendent's designee shall notify SBEC of that criminal history within seven calendar days of the date that information is obtained.

*Education Code 22.0834; 19 TAC 153.1117(b)–(c).*

#### **Sec. 4. Emergency Exception**

In the event of an emergency, RMA may allow a covered contract employee to enter RMA property without the required criminal history record information review if the person is accompanied by an RMA employee. RMA may adopt rules regarding an emergency situation.

*Education Code 22.0834(f); 19 TAC 153.1117(b)(2).*

#### **Sec. 5. Contractors Providing Transportation Services**

In addition to the requirements described above at “Criminal History: In General,” if RMA contracts with a person for transportation services, RMA shall obtain criminal history record information from any law enforcement or criminal justice agency relating to a person employed by the person as a bus driver or a person the person intends to employ as a bus driver. A person who contracts with RMA to provide transportation services shall submit to RMA the name and other identification data required to obtain the criminal history record information of such persons. If RMA obtains information that such a person has been convicted of a felony or a misdemeanor involving moral turpitude, RMA shall inform the human resource department of the person with whom RMA has contracted, and the person may not employ that person to drive a bus on which students are transported without the permission of the Board.

*Education Code 22.084(a)–(b).*

#### **Sec. 5.1 Commercial Transportation Company**

In addition to the requirements described above at “Criminal History: In General,” if RMA contracts with a commercial transportation company for transportation services, the company may obtain all criminal history record information that relates to a person employed by the company as a bus driver, bus monitor, or bus aide, or a person the company intends to employ in one of those positions. If the company obtains criminal history record information indicating that a person it employs or intends to employ has been convicted of a felony or a misdemeanor involving moral turpitude, the company may not, without the permission of the Board, employ that person to drive or serve as a bus monitor or bus aide on a bus on which students are transported. If the commercial transportation company obtains the criminal history record information, RMA is not required to do the same. *Education Code 22.084(c)-(d).*

### **PG-5.530: CRIMINAL HISTORY CHECKS FOR PUBLIC WORKS CONTRACTORS**

#### **Sec. 1. Definitions**

“Contracting entity” means an entity that contracts directly with RMA or a shared services arrangement to provide engineering, architectural, or construction services to RMA or the shared services arrangement.

“Instructional facility” means real property, an improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching RMA’s required curriculum.

“Subcontracting entity” means an entity that contracts with another entity that is not RMA to provide engineering, architectural, or construction services to RMA or shared services arrangement.

*Education Code 22.08341.*

### **Sec. 2. Applicability of Policy**

This policy applies to a person who is not an applicant for or holder of a certificate under Subchapter B, Chapter 21 of the Texas Education Code and who is employed by a contracting or subcontracting entity on a project to design, construct, alter, or repair a public work if the person has or will have:

- (a) Continuing duties related to the contracted services; and
- (b) The opportunity for direct contact with students in connection with the person’s continuing duties.

*Education Code 22.08341(b).*

For purposes of this policy, a person does not have the opportunity for direct contact with students if:

- (a) The public work does not involve the construction, alteration, or repair of an instructional facility;
- (b) For a public work that involves construction of a new instructional facility, the person’s duties related to the contracted services will be completed not later than the seventh day before the first date the facility will be used for instructional purposes; or
- (c) For a public work that involves an existing instructional facility:
  - 1. The public work area contains sanitary facilities and is separated from all areas used by students by a secure barrier fence that is not less than six feet in height; and
  - 2. The contracting entity adopts a policy prohibiting employees, including subcontracting entity employees, from interacting with students or entering areas used by students, informs employees of the policy, and enforces the policy at the public work area.

*Education Code 22.08341(c).*

### **Sec. 3. Disqualifying Criminal Histories**

A contracting entity or subcontracting entity may not permit an employee described in Section 5.15.2 to provide services at an instructional facility if the employee, during the preceding 30 years, was convicted of any of the following offenses and the victim was under 18 years of age or was enrolled in a public school:

- (a) A felon offense under Title 5, Penal Code;
- (b) An offense or conviction of which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or
- (c) An offense under the laws of another state or federal law that is equivalent to an offense under items 1 or 2 above.

*Education Code 22.08341(d).*

#### **Sec. 4. Duties of Contracting or Subcontracting Entities**

For a person described in Section 5.15.2, the contracting entity or subcontracting entity that employs the person shall:

- (a) Send or ensure that the person sends to the Texas Department of Public Safety (the “Department”) information that is required by the Department for obtaining national criminal history record information, which may include fingerprints and photographs;
- (b) Obtain all criminal history record information that relates to the person through the criminal history clearinghouse as provided by Section 411.0845, Government Code; and
- (c) Certify to RMA, shared services arrangement, or contracting entity, as applicable, that the contracting entity or subcontracting entity that employs the person has received all criminal history record information relating to the person.

A contracting entity shall certify to RMA or shared services arrangement, as applicable, that the contracting entity has obtained written certifications from any subcontracting entity that the subcontracting entity has complied with its obligations to receive all criminal history record information as it relates to the subcontracting entity’s employees.

*Education Code 22.08341(e)-(f).*

If a contracting entity or subcontracting entity determines that Section 5.15.2 does not apply to an employee, the contracting or subcontracting entity shall make a reasonable effort to ensure that the conditions or precautions that resulted in the determination that Section 5.15.2 does not apply to the employee continue to exist throughout the time that the contracted services are provided.

*Education Code 22.08341(i).*

#### **Sec. 5. Criminal History Record Information Obtained by RMA**

RMA or a shared services arrangement may directly obtain the criminal history record information of a person described in Section 5.15.2 through the criminal history clearinghouse as provided by Section 411.0845, Government Code.

*Education Code 22.08341(h).*

#### **Sec. 6. Emergency Exception**

In the event of an emergency, RMA may allow a person to whom Section 5.15.2 applies to enter an instructional facility if the person is accompanied by an RMA employee. RMA may adopt rules regarding an emergency situation. *Education Code 22.08341(j).*

## **PG-5.910: Internal Audits**

### **Sec. 1. Purpose of Policy.**

Through this policy, the Board of Directors (hereafter, the “Board”) of RICHARD MILBURN ACADEMY/TEXAS, INC. doing business as RICHARD MILBURN ACADEMY (hereafter, the “Richard Milburn Academy”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Business Organizations Code (“Tex. Bus. Org. Code”) Sections 3.101, 22.201, 22.221 and 22.235;
- (b) Texas Education Code (“Tex. Ed. Code”) Sections 12.115(a)(2) and 12.121; and
- (c) Texas Administrative Code, Title 19 (“19 TAC”), Sections 100.1033 and 100.1101.

Additionally, through this policy, the Board shall address best practices adopted by RMA.

### **Sec. 2. Authority Over Fiscal Matters.**

Sec. 2.1. In accordance with state law, the Board has primary and ultimate authority over fiscal matters. If a matter or decision-making process is not addressed in this or other duly adopted policies of the Board, authority rests with the Board. In the event of a conflict between this policy and any other Board policy, such conflict shall be brought to the Board for resolution.

Sec. 2.2. The Delegate shall report to the Board any business arrangement or transaction with an individual that is an officer and any conflicted,<sup>111</sup> interested<sup>112</sup> or related<sup>113</sup> party, as defined in other Board policy or applicable law. RMA and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

### **Sec. 3. Purpose.**

Under this policy, internal audits may be established to provide independent and objective assurance and consulting services to improve the management of organizational risks and the effectiveness of internal controls.

### **Sec. 4. Oversight.**

The Board shall have final authority over internal audits.

### **Sec. 7. Access to Personnel, Property, and Records.**

RMA officers and employees should provide any internal audits with access to all personnel, property, and records. If an RMA officer or other employee fails to provide internal audits said access, internal audits shall report the employee’s failure to provide access to the Board.

### **Sec. 8. Recommendations.**

The Delegate or other officers may recommend or submit a request to the Board for an internal audit to conduct an inquiry to address perceived or known concerns or issues.

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<sup>111</sup> Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

<sup>112</sup> 19 TAC § 100.1047(f)

<sup>113</sup> Tex. Ed. Code § 12.1166

**Sec. 9. Prohibited Conduct.**

RMA officers and employees, without exception, are prohibited from demanding or otherwise directing the work undertaken by internal audits, including the content of any report or other deliverable prepared by internal audits.

**Sec. 14. Administrative Support.**

The Delegate or designee should provide administrative support to internal audits including, but not limited to:

- (a) an adequate, equipped, furnished, and secure office; and
- (b) accounting, information technology, payroll, purchasing, travel, and other essential administrative services; and
- (c) human resource administration.

**Sec. 15. Training and Updates.<sup>114</sup>**

The Delegate or designee shall keep directors and employees informed of any changes to this policy and related requirements.

**Sec. 16. Administrative Procedures.<sup>115</sup>**

The Delegate may implement procedures as reasonably necessary to properly administer this policy and to adhere to applicable law and rule. In doing so, the Delegate shall not adopt, and is prohibited from adopting, an administrative procedure that conflicts with applicable law or this policy. Accordingly, the Delegate shall confer with the Board or legal counsel before deviating from the requirements set forth in this policy. In the event that a deviation from this policy becomes necessary, the Delegate shall either recommend an amendment to this policy or the Board's approval of a specific deviation, including the purpose, scope and duration of the requested deviation.

**Sec 18. Retention.<sup>116</sup>**

This policy shall be retained until superseded, expired, or discontinued thereafter.