

**Open-Enrollment Charter School Renewal Application
Generation Two – Standard**

Part 1. Charter Update

Charter Holder Name: Academy of Careers & Technologies, Inc.
(i.e., nonprofit organization, institution of higher learning, or governmental entity)

Charter School Name: Academy of Careers & Technologies Charter School

Charter School County/District #: 015816

[illegible]

Section I. Maximum Enrollment, Grades Served, and Geographic Boundaries

In the spaces below, please list the maximum enrollment, the grades the charter school serves (indicating if there is an approved GED program), and the geographic boundaries.

A. Maximum Enrollment: 360

B. Grades Served: 9-12

Approved GED Program: YES ☐ NO ☒

C. Geographic Boundaries (School Districts): Harlandale ISD, San Antonio ISD, South San ISD, Northeast ISD, East Central ISD, South West ISD, Southside ISD, Judson ISD, Northside ISD, Alamo Heights ISD, Edgewood ISD, Randolph Field ISD, Somerset ISD, Lackland ISD, Ft Sam Houston ISD Universal ISD, Cibola ISD, Schertz ISD

Section II. Governance Structure and Procedures

Review *TEC, Sec. 12.121* and *19 TAC Chapter 100, Division 5 (Charter School Governance)*, which lists, among other things, powers and duties that must be exercised by the governing body of the charter holder, and nepotism and conflict of interest prohibitions and exceptions.

Where indicated, list all relatives of the members of the Governing Body of the Charter Holder, of the Governing Body of the Charter School, and of the Officers of the Charter School within the *third degree of consanguinity or affinity*. These include your spouse and the following relations to you and to your spouse: parents, children, grandchildren, siblings, grandparents, great-grandparents, nieces, nephews, aunts, uncles, and great-grandchildren.

A. Governing Body of Charter Holder

1. In the spaces below please list the names of the members of the governing body of the charter holder, the offices held, any board members relative within the third degree of consanguinity or affinity (see definition above), and any compensation or remuneration from the charter holder or charter school received by the board members.

Board Member Name	Office Held	Relative(s) Within the Third Degree of Consanguinity or Affinity Who are Also Serving on the Board	Board Member Compensation or Remuneration Per Year
Paula M. Applin	President	n/a	0.00
Dr. Tonja D. Nelson	Secretary	n/a	60,000.00
Latrese Moore	Vice-President	n/a	0.00

2. Will any relative of the board member within the third degree of consanguinity or affinity (see definition above) be employed by or receive any compensation or remuneration from the charter holder or the charter school? If yes, provide details in the space provided below. YES ☐ NO ☒

3. Will any board member's spouse or any of the spouse's relatives within the third degree of consanguinity or affinity (see definition on page 2) be employed by or receive any compensation or remuneration from the charter holder or charter school? If yes, provide details in the space provided below. YES ☐ NO ☒

4. Will any person who is a relative within the third degree of consanguinity or affinity (see definition on page 2) of a charter school officer (i.e., a person charged with the duties of, or acting as, a chief executive officer, a central administrator, a campus administration officer, or a business manager) be employed by or receive any compensation or remuneration from the charter holder or charter school? If yes, provide details in the space provided below. YES ☐ NO ☒

B. Governing Body of Charter School

1. If the governance structure includes more than one board (i.e., a governing body that is separate from the governing body of the charter holder), in the spaces below please list the names of the members of the governing body of the charter school, the offices held, any relative of a board member within the third degree of consanguinity or affinity (see definition on page 2), and any compensation or remuneration from the charter holder or charter school received by the board members.

Board Member Name	Office Held	Relative(s) Within the Third Degree of Consanguinity or Affinity Who are also Serving on the Board	Board Member Compensation or Remuneration Per Year
Phyllis Brown	President	n/a	0.00
Isabel Saucedo	Vice President	n/a	0.00
Sherley Hill	Secretary	n/a	0.00

2. Will any relative of a board member within the third degree of consanguinity or affinity (see definition on page 3) be employed by or receive any compensation or remuneration from the charter holder or the charter school? If yes, provide details in space provided below. YES ☐ NO ☒

3. Will any board member's spouse or any of the spouse's relatives within the third degree of consanguinity or affinity (see definition on page 3) be employed by or receive any compensation or remuneration from the charter holder or charter school? If yes, provide details in the space provided below. YES ☐ NO ☒

C. Roles and Responsibilities of Governing Bodies

Describe the roles and responsibilities of both the charter holder and charter school governing bodies. If this represents a change from the governance structure currently on file with the Agency, please indicate that it is a change and describe the difference from the previous structure.

Academy of Careers & Technologies, Inc, (charter holder) has the primary responsibility for implementing the public school program authorized by the open enrollment charter and ensuring the performance of the students enrolled in Academy of Careers & Technologies Charter High School in accordance with the Texas Education code. Academy of Careers & Technologies, Inc. is responsible for the management, operation, and accountability of Academy of Careers & Technologies Charter High School Pursuant to a delegation amendment to Academy of Careers & Technologies Charter High School charter; the Charter Holder has delegated the following powers and duties to ACT School Board:

1. Daily operational procedures

D. Organizational Chart, Criminal History Records, Biographical Affidavit

- Submit an organizational chart. Include this document as **Attachment 1, Organizational Chart.**
- Submit a criminal history record for each board member. Include these documents as **Attachment 2, Criminal History Records for Board Members.**
- Submit a biographical affidavit for each board member. Include these documents as **Attachment 3, Board Member Biographical Affidavit.**

Section III. Teacher Qualifications

In the space provided, describe the qualifications required for all classroom teachers and other instructional staff. If this represents a change from the charter application on file with the Agency or approved amendments, please indicate that it is a change and describe the difference from the previous requirement.

ACT will only employ staff that understands the important nature of its "unique culture," and who want to build a community within ACT's facilities and cyberspace by patient interaction.

All instructional staff will have a minimum of a bachelor's degree from an accredited college or university. The relationship of one educator to another is nonhierarchical in the sense that every staff member (along with students) shares in the responsibility for the success of the ACT educational process.

Section IV. Code of Conduct

In the space provided, describe the methods used to inform parents and students about school rules and guidelines governing student behavior. Include policies regarding student expulsion and suspension and procedures that satisfy due process requirements.

The Student Code of Conduct containing information regarding student behavior shall be distributed at the beginning of the school year to students and parents, teachers, and administrators. The Student Code of Conduct shall be provided also to newly hired professional employees, newly enrolled students, and any other person on request. Revisions to the Student Code of Conduct during the year shall be communicated promptly to students and parents, teachers, and administrators and shall also be posted on campus.

The school's rules of conduct and discipline are established to maintain order in the school. The staff of the school has the responsibility to enforce the standards and policies of the charter school's Student Code of Conduct. Full cooperation of the students and parents/guardians is expected.

Students are expected to conduct themselves in an appropriate manner at all times. Any behavior that is detrimental to the learning environment of the student or other students and/or staff members will not be tolerated. A student whose behavior shows disrespect toward others, including interference with another's access to a public education and a safe environment, will be subject to disciplinary action. In general, discipline will be designed to correct misconduct, to encourage all students to adhere to their responsibilities as citizens of the school community, to protect students, school employees or property, and to maintain essential order and discipline. Disciplinary action will draw upon the professional judgment of teachers and administrators and a range of discipline management techniques. In deciding a disciplinary action the school may consider the seriousness of the offense, the student's age and grade level, the frequency of misconduct, the student's attitude, the effect of the misconduct on the school environment and others, any statutory or regulatory requirements, and other appropriate factors.

A. Principal

The principal of the school has the authority to implement the Student Code of Conduct up to and including the suspension of a student from campus.

B. Superintendent

Only the School Director has the authority to expel a student. Expulsions shall be handled according to the procedures described below.

C. Campus and Classroom Rules

In addition to rules in this Student Code of Conduct, principals may impose campus rules, and teachers and extracurricular sponsors may impose and communicate campus rules, classroom rules and rules of an extracurricular activity, where such rules are not inconsistent with this code. Consequences for Serious and/or Persistent Misbehaviors

A. Suspension or Expulsion

Serious infractions, and persistent misbehaviors, as determined by the principal, may result in more serious disciplinary consequences, up to and including suspension and/or expulsion.

B. Firearm Violations

Federal law mandates that a student be expelled from the regular classroom for a period of at least one (1) calendar year for bringing a firearm (as defined by 20 U.S.C. § 715 1) to school. However, the School Director or designee may modify the length of the expulsion or assess another comparable penalty that results in the student's exclusion from the regular school program on a case-by-case basis.

Suspension

A. Process

The principal or designee has the authority to suspend a student for a period of up to five (5) school days for any offense for the following reasons:

- (1) The severity or persistence of the Code of Conduct violation;
- (2) The need to further investigate an incident; or
- (3) A recommendation to expel the student.

Prior to suspending a student, the principal or designee must hold an informal conference with the student to:

- (1) Notify the student of the accusations against him/her;
- (2) Allow the student to relate his/her version of the incident;
- (3) Determine whether the student's conduct warrants suspension.

Notification to Parents/Guardians

If the principal or designee determines the student's conduct warrants suspension, the principal or designee will notify the student's parents/guardians that the student has been suspended before the student is sent home. At this time, the principal or designee will also notify the student's parents/guardians of the period of suspension, the grounds for the suspension, and the time and place for a conference with the principal.

Emergency Actions

In an emergency, the principal or designee may order the immediate suspension of a student for up to five (5) days if the student's presence threatens the health, safety, or welfare of himself/herself or other students or faculty.

If a student is suspended in an "emergency" situation without the opportunity for notice of the allegations against him/her, the principal must notify the student of the allegations and provide the student with an opportunity to present his/her version of the incident within a reasonable period of time, not to exceed three (3) days.

A student may receive credit for work missed during the period of suspension if the student makes up work missed during the period of suspension within the same number of days the student was absent.

Expulsion

Only the Superintendent has the authority to expel for any period up to one (1) calendar year. The principal may recommend expulsion of a student to the Superintendent. The principal's recommendations shall specify the reasons, identified in the Student Code of Conduct, for a particular student's expulsion.

Due Process

When the principal determines that a student's conduct warrants expulsion, but prior to taking any expulsion action, the principal will provide the student's parents/guardians with written notice of:

- 1) The reasons for the proposed expulsion; and
- 2) The date and location for a hearing before the Superintendent, within three (3) days after the date of the notice, unless the parents/guardians and Superintendent agree in writing to an alternate time. The notice shall further state that the student may:
 - (a) Be present at the hearing;
 - (b) Have an opportunity to present evidence;
 - (c) Have an opportunity to examine/question the school's evidence and witnesses;
 - (d) Be accompanied by his/her parents/guardians; and
 - (e) Be represented by an attorney

The notice shall also state that failure to request such a hearing constitutes a waiver of further rights in the matter.

Hearing Before Superintendent

The school shall make a good faith effort to inform the student and the student's parents/guardians of the time and place for the hearing, and the school shall hold the hearing regardless of whether the student, the student's parents/guardians, or another adult representing the student attends. The Superintendent shall audio record the hearing.

Immediately following the hearing on expulsion, the Superintendent will notify the student and the student's parents/guardians in writing of his/her decision. The decision shall specify:

- (1) The length of the expulsion, if any;
- (2) The procedures for re-admittance at the end of the expulsion period; and
- (3) The right to appeal the Superintendent's decision to the governing board.

Appeal to Board

- (1) The student or his/her parents/guardians may appeal the School Director's decision to the school board by notifying the School Director in writing within seven (7) days of the date of receipt of the School Director's decision. The board will review the audio or transcribed record from the hearing before the School Director at the next regularly scheduled board meeting, or at the discretion of the board, at a specially called meeting. The board will notify the student and his/her parents/guardians of its decision in writing within five (5) calendar days of the hearing.
- (2) Consequences will not be deferred pending the outcome of an appeal of an expulsion to the board. Except when required by law, students will not earn academic credit during a period of expulsion.

Section V. Complaints

In the space provided, describe the methods used to inform parents, students, and employees about the procedures for receiving and responding to complaints. (Note: Under 19 TAC § 100.1101(e), the governing body of a charter holder shall not delegate final authority to hear or decide employee grievances, citizen complaints, or parental concerns.)

Where campus decisions are involved, parents of students shall first bring their student-related complaints or concerns to the principal. If the complaint cannot be resolved on an informal basis, the parents may file a formal written complaint.

Complaints must be brought within 10 days of the time the parents knew or should have known of the event(s) or incident(s) giving rise to the complaint.

Complaints or concerns that are not resolved at the school level may be brought to the attention of the Superintendent within 10 days of the day the parents knew of, or should have known of, the complaint. The complaint or concern addressed to the Superintendent must be in writing, must be specific, and where possible, suggest a resolution. The Superintendent shall attempt to respond in writing to all written complaints or concerns within 10 days of receipt of the written complaint.

1. Parents who are dissatisfied with the response of the Superintendent may make their complaint known, in writing to the board of directors within 10 days of receiving the Superintendent's decision, or within 20 days of the original event. The complaint shall be directed to the president of the board of directors, and shall include a copy of the written complaint the Superintendent with his/her response. A copy of the complaint shall also be delivered to the Superintendent. The president of the governing board shall, at next regular meeting of the board, provide a copy of the complaint record to all board members. Any action of the board of directors regarding the complaint shall be taken in compliance with the Open Meetings Act.

The failure of the board to act on a complaint has the effect of upholding the decision below.

Section VI. Admissions Policy

In the space provided, describe the timeline used for admitting students, including the application deadline and the process for the admission of students by lottery. (Although state law permits students to be accepted on a first come, first served basis or through a lottery, a charter school that is oversubscribed must use a lottery to be eligible to receive federal funds.)

1. Definitions

"Lottery," as used in this policy, means a random selection process by which applicants for admission to the school are admitted to the school.

2. Nondiscrimination

A. The school will not grant admissions on the basis of gender, national origin, ethnicity, religion, disability, academic or artistic or athletic ability, or the school district the student would otherwise attend.

B. However, in accordance with the school's charter, the school may exclude a student who has a documented history of a criminal offense, a juvenile court adjudication, or serious discipline problems.

3. Admissions Procedures

A. Lottery A lottery shall be used if more students apply for admission to the school than can be admitted.

B. Date of Application In the event the school has fewer applicants than spaces available, it may choose not to conduct a lottery and admit applicants on a first-come first-served basis.

C. Lottery Process

a) New applicants for admission are subject to a lottery if, as of the application closing date, the total number of applicants exceeds the number of spaces available at the school. The school shall include in the lottery all eligible applicants for admission, excluding the exemptions, listed below.

(i) When recruiting students, the school shall target all segments of the parent community. The school recruits students in a manner that does not discriminate on the basis of race, color, national origin, religion, or sex, or against students with disabilities. The school may, however, target student groups that may have limited opportunities to participate in the school's programs.

(ii) Once a student has been admitted to the school, s/he may remain in attendance through subsequent grades, so long as the student attends the school for successive school years. A student whose attendance is not continuous will be subject to the lottery requirement upon readmission.

Enrollment

A. Charter Specifications

1. No student shall be denied admission on the basis of sex, national origin, ethnicity, religion, disability, academic, artistic, or athletic ability or with regard to the district the child would otherwise attend in accordance with school district student admissions laws.

2. Students with a documented history of a criminal offense, a juvenile court adjudication, or a student with a history of discipline problems as described in subchapter A, Chapter 37 of the Texas Education Code, that is, offenses for which public school district students must or may be expelled, suspended, or assigned to an Alternative Education Program, may be excluded from admission.

B. Required Documentation for Enrollment

To verify the residency of a student, a parent or other person with legal control of a child, shall furnish to the school one or more of the following documents: voter registration, tax record, utility bill, or lease on house, condominium, or apartment. □

Part 2. Program Evaluation

Section VII. Evaluation of Student Performance

In the spaces provided, describe student performance. Address student progress over time and performance as it relates to AEIS *base* and *additional* indicators and in terms of any *other relevant performance information*.

A. AEIS Base Indicators

Describe student performance as it relates to AEIS *base* indicators (i.e., TAAS scores and dropout rates). Be specific about indicators such as percentage of students passing exams and annual dropout rates.

Note: Campuses rated under the Alternative Education Accountability system may also have student attendance and Texas Learning Index (TLI) growth as base indicators.

Academy of Careers & Technologies Charter High School student performance indicators are based on the state acceptable standards for alternative education campus for the All Students category in Texas Assessment of Academic Skills (TAAS) Reading and Mathematics was 30 percent for 2002. The acceptable dropout rate was 10 percent or less, and the acceptable attendance rate was 80 percent or higher. The TAAS 2002 passing rate was 66.7 percent for the All Students group in Reading. The TAAS passing rate was 45.5 percent for the All Students group in Mathematics. The attendance rate was 75 percent for the All Students group. The dropout rate was 8.1 percent. The Additional Indicator, chosen at the time of registration, was percent of student growth in TLI. Results of the Additional Indicator were 31 percent.

B. AEIS Additional Indicators

Describe student performance as it relates to AEIS *additional* indicators (i.e., attendance rates, 4-year completion rates, college admissions testing, and participation in the recommended high school program). Be specific about indicators such as average Texas Learning Index (TLI) growth, year-to-year progress, and accountability ratings.

Note: Campuses rated under the Alternative Education Accountability system may also have campus-selected additional AEIS indicators.

The Additional Indicator, chosen at the time of registration, was percent of student growth in TLI. Results of the Additional Indicator were 31 percent. 2001-2002 was the first year Academy of Careers & Technologies was rated, we do not have data to compare the year-to-year progress.

C. Other Information Relevant to Student Performance

Describe unique accomplishments of the charter school as they relate to student performance. Be specific in describing accomplishments and provide supporting evidence and documentation as **Attachment 4, Documentation for Evaluation of Other Information Relevant to Performance.**

Refer to questions three and four of the charter application on file for any additional accountability provisions, in addition to those required under Texas Education Code, Chapter 39, under which the performance of the open-enrollment charter may be assessed. Refer to question five of the application for any basis, in addition to a basis specified under Texas Education Code, Chapter 12, on which the renewal of the charter may be denied.

ACT teach a joint program of academics and technology, with a concentration in technology based education programs. These programs assess the student skill level and generate summary reports indicating weak areas needing more instruction.

The class size ratio of 15 pupils per teacher creates an environment in which every student becomes engaged in learning, and which enables more individual assist and has increase student performance program was established to improve educational achievement for all students, including those with special needs, by reducing class size.

Section VIII. Student Performance Goals

In the spaces provided below, identify the school's academic goals for student learning for the next **five years** in terms of AEIS *base* and *additional* indicators and *other relevant performance information*.

Some accountability standards and criteria for 2004 and 2005 are available in the 2002 Accountability Manual, which is available at www.tea.state.tx.us/perfreport/account/2002/manual. TAKS passing standards for Exemplary and Recognized are the same as in 2002. Rating criteria and standards have not yet been determined beyond 2002 for completion rate, dropout rate, the State-Developed Alternative Assessment (SDAA), and the Academically Acceptable/Acceptable rating.

A. AEIS Base Indicators

Describe student performance goals in terms of AEIS *base* indicators (i.e., TAAS scores and dropout rates). Be specific about indicators such as percentage of students passing exams and annual dropout rates.

Note: Campuses rated under the Alternative Education Accountability system may also have student attendance and Texas Learning Index (TLI) growth as base indicators.

ACT will improve the academic achievement of all students, will maintain commended status on AEIS, and will meet or exceed the predicted percentage of students meeting minimum expectations at TAKS higher standards as shown on the AEIS.

OBJECTIVE 1: By the end of each school year, the percentage of students mastering reading section of the TAKS will increase as measured by the AEIS.

OBJECTIVE 2: By the end of each school year, the percentage of students mastering the mathematics section of the TAKS will increase as measured by the AEIS.

OBJECTIVE 3: By the end of each school year, the percentage of students mastering the social studies section of the TAKS will increase as measured by the AEIS.

OBJECTIVE 4: By the end of each school year, the percentage of students mastering the science section of the TAKS will increase as measured by the AEIS.

OBJECTIVE 5: By the end of each school year, the dropout rate will be reduced until we reach 1.0%.

B. AEIS Additional Indicators

Describe student performance goals in terms of AEIS *additional* indicators (i.e., attendance rates, 4-year completion rate, college admissions testing, and participation in the recommended high school program). Be specific about indicators such as average Texas Learning Index (TLI) growth, year-to-year progress, and accountability ratings.

Note: Campuses rated under the Alternative Education Accountability system may also have campus-selected additional indicators.

ACT will provide a high quality of instruction in order that all students, including special populations, will exhibit growth toward the state's standards of achievement as reflected in the AEIS

OBJECTIVE 1: By the end of each school year, the percentage of attendance will increase until we have 97% attendance.

OBJECTIVE 2: By the end of each school year, the retention rate will be reduced annually as reflected in the AEIS.

OBJECTIVE 3: By the end of each school year, the percentage of students enrolled in advanced courses will increase by 5% until we reach 20%.

OBJECTIVE 4: By the end of each school year, the percentage of students taking college admissions tests will increase by 5% until we reach 70%.

OBJECTIVE 5: By the end of each school year, the percentage of students scoring at or above criteria on college admissions tests will increase by 5% until we reach 20%.

C. Other Relevant Performance Goals

Describe other relevant student performance goals that may be unique to your school.

- Plans for developing working relationships and service links with community organizations.
- The organization and culture of the school and the degree to which these factors support students learning and promote responsible citizenship.
- Policies, practices and programs likely to make the school a safe and orderly environment for learning.
- Plans for the professional development of teachers, administrators, and other school staff.
- A stable, effective governance model that is capable of providing a strong vision and continuity of leadership.
- A viable administrative structure capable of providing strong leadership for the school and making adequate provision for teacher, student, and parent input to decisions that affect the school.
- People possessing the professional skills needed for organizational, and other tasks required to operate a well-functioning school.
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Section IX. Plans and Initiatives to Improve Student Performance

Describe plans and initiatives to improve student performance for the next five years. Explain **how** the school plans to accomplish its goals.

We will increase student performance through the school improvement process. School is a place where students learn and apply skills, knowledge and practices essential in a diverse and changing society. Students, teachers, parents and the community share a responsibility for individual student achievement of standards for excellence aligned across schools and grades. Students and adults continually evaluate progress to guide the next steps for learning by using a variety of assessment strategies. Learning activities are based on strategies proven by research and experience to promote each individual's best performance. We will teach the district curriculum and use the evidence of our results to continuously improve.

Essential Skills Strategy

To ensure accountability for continuous student progress in district, state and national standards in language arts, mathematics, social studies, biological and physical sciences, fine arts, and physical development and health, we will...

1. Develop a continuum of learner standards that:
 - ensures mastery of essential skills
 - meets or exceeds national and state standards

2. provides exit level standards for grades 9,10, and 11
Implement a continuum of learner standards by:
involving staff, parents and students
encouraging and supporting best practices for instruction of each subject area
setting and achieving school goals to improve student achievement.
achieving at each school a state accreditation rating of "exceeds"
3. Assess and evaluate a continuum of learner standards by:
developing a strategy for using multiple forms of assessment
applying assessment results to instruction and School Improvement Process
4. Communicate student progress to students, parents, teachers, the community
and state agencies by:
designing and implementing a system of multiple methods for reporting
student progress.
5. Engage in a school-wide process that ensures program improvement at all grade levels.

Section X. Monitoring Follow-Up

Discuss improvements made and other actions taken to address any and all findings, recommendations, or sanctions by the Agency including those resulting from monitoring on-site visits or hearings. Provide specific information about compliance status with all special program indicators, including corrective action plans for bilingual and special education programs, and about PAS/DAS risk levels.

New instructional techniques have been implemented this school year using the Odyssey Program. Additional training will be provided on Early Release Days and Staff Development Day for the program previously indicated. Lesson plans will be monitored weekly for incorporation of the program. Grade level meetings are held regularly and appropriate staff development courses are provided as needed.

Our technology lab will enhance our instructional program. As we provide a variety of activities for students in grades 9-12. Students will be exposed to lessons that will enable them to do research and complete projects at school and independently. Instruction will also incorporate objectives from the curriculum.

The on-site review visit from the Division of Accountability Evaluations, Texas Education Agency conducted September 30-October 4, 2002 noted the following significant factor impacting the condition of performance:

Parental Involvement - The school has low parental involvement. While parents are free to visit the school, they seldom take advantage of this freedom. The superintendent and principal have recruited two parents to start a parent booster club, which is projected to sponsor fund-raisers and other parent-attracting events.

Recommendation - The Agency reviewer recommends that the charter school provide all possible assistance possible to the booster club.

Action - ACT value parent involvement and has actively developed and implemented parent events to increase parental involvement.

Follow up - ACT review goals regularly and provide support to faculty and staff in an effort to meet our goal of 50% of parental participant

Part 3. Special Needs Students/Programs

NOTE: The approval of this charter school renewal application and/or removal of any contingencies is based on the information provided by the charter school as it reflects the charter school's knowledge of special education. Approval of the charter school renewal application and/or removal of any contingencies should not be construed to reflect a determination of special education compliance or to cover any other issues outside the scope of this renewal application process or actions that may have occurred since this renewal application process.

Section XI. IDEA Key Components

Describe ***IN DETAIL*** (*in the order requested and in the space provided below*) how the charter school accommodates students with disabilities in the SPECIAL EDUCATION program according to the Individuals with Disabilities Education Act (IDEA), the Texas Education Code, the State Board of Education rules, and the Commissioner's rules (SEE, Key Components).

Please **DO NOT SEND** a copy of the charter school's special education policies and procedures. This will only delay the review by a second request to submit the information as requested.

The Texas Side-by-Side is available online to assist the application process:

<http://www.tea.state.tx.us/special.ed/rules/sbs.html>.

A. Child Find (34 CFR 300.125)

- (1) Academy of Careers & Technologies Charter High School (ACTCHS) has in effect policies and procedures to ensure that—
 - (i) All children with disabilities attending ACTCHS, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated; and
 - (ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services.
- (2) The requirements of paragraph (a)(1) of this section apply to—
 - (i) Highly mobile children with disabilities (such as migrant and homeless children); and
 - (ii) Children who are suspected of being a child with a disability under §300.7 and in need of special education, even though they are advancing from grade to grade.
- (c) Child find for children from birth through age 2 when the SEA and lead agency for the Part C program are different.
 - (1) In States where the SEA and the State's lead agency for the Part C program are different and the Part C lead agency will be participating in the child find activities described in paragraph (a) of this section, a description of the nature and extent of the Part C lead agency's participation must be included under paragraph (b)(2) of this section.
 - (2) With the SEA's agreement, the Part C lead agency's participation may include the actual implementation of child find activities for infants and toddlers with disabilities.
 - (3) The use of an interagency agreement or other mechanism for providing for the Part C lead agency's participation does not alter or diminish the responsibility of the SEA to ensure compliance with the requirements of this section.
- (e) Confidentiality of child find data. The collection and use of data to meet the requirements of this section are subject to the confidentiality requirements of §§300.560-300.577.

B. Confidentiality (34 CFR 300.127; 34 CFR 300.560-300.577; 34 CFR Part 99; TEC 26.004)

§26.004. Access to Student Records.

A parent is entitled to access to all written records of a school district concerning the parent's child, including:

- (1) attendance records;
- (2) test scores;
- (3) grades;
- (4) disciplinary records;
- (5) counseling records;
- (6) psychological records;
- (7) applications for admission;
- (8) health and immunization information;
- (9) teacher and counselor evaluations; and
- (10) reports of behavioral patterns.

§89.1050(f)(3) (Transfer of Records))

(f)(3) In accordance with TEC, §25.002, ACT will furnish the new school district with a copy of the student's records, including the child's special education records, not later than the 30th calendar day after the student was enrolled in the new school district. The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., §1232g, does not require the student's current and previous school districts to obtain parental consent before requesting or sending the student's special education records if the disclosure is conducted in accordance with 34 CFR, §99.31(a)(2) and §99.34.

§300.127. Confidentiality of personally identifiable information.

(a) ACTCHS will have on file in detail the policies and procedures that the charter has undertaken to ensure protection of the confidentiality of any personally identifiable information, collected, used, or maintained under Part B of the Act. §300.560. Definitions.

As used in §§300.560-300.577—

- (a) Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.
- (b) Education records means the type of records covered under the definition of "education records" in 34 CFR part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974).
- (c) Participating agency means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of the Act.

§300.561. Notice to parents.

- (a) ACTCHS shall give notice that is adequate to fully inform parents about the requirements of §300.127, including—
 - (1) A description of the extent that the notice is given in the native languages of the various population groups attending the ACT;
 - (2) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the Charter intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;
 - (3) A summary of the policies and procedures regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and
 - (4) A description of all of the rights of parents and children regarding this information, including the rights under the Family Educational Rights and Privacy Act of 1974 and implementing regulations in 34 CFR part 99.
- (b) Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the District of the activity.

§300.562. Access rights.

(a) ACT shall permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. ACT shall comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to §§300.507 and 300.521-300.528, and in no case more than 45 days after the request has been made.

(b) The right to inspect and review education records under this section includes—

- (1) The right to a response from ACTCHS to reasonable requests for explanations and interpretations of the records;
- (2) The right to request that ACT provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and

(3) The right to have a representative of the parent inspect and review the records.

(c) ACTCHS will presume that the parent has authority to inspect and review records relating to his or her child unless the District has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

§300.563. Record of access.

ACTCHS shall keep a record of parties obtaining access to education records collected, maintained, or used under Part B of the Act (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

§300.564. Records on more than one child.

If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

§300.565. List of types and locations of information.

ACTCHS shall provide parents on request a list of the types and locations of education records collected, maintained, or used by the agency

§300.566. Fees.

(a) ACTCHS may charge a fee for copies of records that are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.

(b) ACTCHS will not charge a fee to search for or to retrieve information under this part.

§300.567. Amendment of records at parent's request.

(a) A parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request ACTCHS to amend the information.

(b) ACTCHS shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

(c) If ACTCHS decides to refuse to amend the information in accordance with the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing under Sec. 300.568.

§300.568. Opportunity for a hearing.

ACTCHS shall, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

§300.569. Result of hearing.

(a) If, as a result of the hearing, the ACTCHS decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall amend the information accordingly and so inform the parent in writing.

(b) If, as a result of the hearing, ACTCHS decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall inform the parent of the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

(c) Any explanation placed in the records of the child under this section must—

(1) Be maintained by ACTCHS as part of the records of the child as long as the record or contested portion is maintained by the charter; and

(2) If the records of the child or the contested portion is disclosed by the charter to any party, the explanation must also be disclosed to the party.

§300.570. Hearing procedures.

A hearing held under §300.568 must be conducted according to the procedures under 34 CFR 99.22

§300.571. Consent.

(a) Except as to disclosures addressed in §300.529(b) for which parental consent is not required by Part 99, parental consent must be obtained before personally identifiable information is—

(1) Disclosed to anyone other than officials of participating agencies collecting or using the information under this part, subject to paragraph (b) of this section; or

(2) Used for any purpose other than meeting a requirement of this part.

(b) An educational agency or institution subject to 34 CFR Part 99 may not release information from education records to participating agencies without parental consent unless authorized to do so under part 99.

(c) The SEA shall provide policies and procedures that are used in the event that a parent refuses to provide consent under this section.

§300.572. Safeguards.

- (a) ACTCHS shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.
- (b) One official at each participating agency shall assume responsibility for ensuring the confidentiality of any personally identifiable information.
- (c) All persons collecting or using personally identifiable information must receive training or instruction regarding the Charter's policies and procedures under §300.127 and 34 CFR part 99.
- (d) ACTCHS will maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

§300.573. Destruction of information.

- (a) ACTCHS shall inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child.
- (b) The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

§300.574. Children's rights.

- (a) ACTCHS shall provide policies and procedures regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the child and type or severity of disability.
- (b) Under the regulations for the Family Educational Rights and Privacy Act of 1974 (34 CFR 99.5(a)), the rights of parents regarding education records are transferred to the student at age 18.
- (c) If the rights accorded to parents under Part B of the Act are transferred to a student who reaches the age of majority, consistent with §300.517, the rights regarding educational records in §§300.562-300.573 must also be transferred to the student. However, the public agency must provide any notice required under section 615 of the Act to the student and the parents.

§300.575. Enforcement.

The District shall provide the policies and procedures, including sanctions, that the State uses to ensure that its policies and procedures are followed and that the requirements of the Act and the regulations in this part are met.

34 CFR Part 99 (An assurance to abide by FERPA)

C. Procedural Safeguards (34 CFR 300.504)

- (a) General. A copy of the procedural safeguards available to the parents of a child with a disability will be given to the parents, at a minimum—
 - (1) Upon initial referral for evaluation;
 - (2) Upon each notification of an IEP meeting;
 - (3) Upon reevaluation of the child; and
 - (4) Upon receipt of a request for due process under §300.507.
- (b) Contents. The procedural safeguards notice must include a full explanation of all of the procedural safeguards available under §§300.403, 300.500-300.529, and 300.560-300.577, and the State complaint procedures available under §§300.660-300.662 relating to—
 - (1) Independent educational evaluation;
 - (2) Prior written notice;
 - (3) Parental consent;
 - (4) Access to educational records;
 - (5) Opportunity to present complaints to initiate due process hearings;
 - (6) The child's placement during pendency of due process proceedings;
 - (7) Procedures for students who are subject to placement in an interim alternative educational setting;
 - (8) Requirements for unilateral placement by parents of children in private schools at public expense;
 - (9) Mediation;
 - (10) Due process hearings, including requirements for disclosure of evaluation results and recommendations;
 - (11) State-level appeals (if applicable in that State);
 - (12) Civil actions;
 - (13) Attorneys' fees; and
 - (14) The State complaint procedures under §§300.660-300.662, including a description of how to file a complaint and the timelines under those procedures.

- (c) Notice in understandable language. The notice required under paragraph (a) of this section must meet the requirements of §300.503(c).

D. Notice of admission, review & dismissal (ARD) committee meetings
(34 CFR 300.503; 34 CFR 300.345; TEC 26.0081; 19 TAC 89.1015; 19 TAC 89.1045)

§89.1015. Time Line for All Notices.

"Reasonable time" required for the written notice to parents under 34 Code of Federal Regulations (CFR), §300.503, is defined as at least five school days, unless the parents agree otherwise.

§300.503. Prior notice by the public agency; content of notice.

(a) Notice.

- (1) Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the District—

- (i) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
- (ii) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

- (2) If the notice described under paragraph (a)(1) of this section relates to an action proposed by the public agency that also requires parental consent under §300.505, the agency may give notice at the same time it requests parent consent.

- (b) Content of notice. The notice required under paragraph (a) of this section must include—

- (1) A description of the action proposed or refused by ACTCHS;
- (2) An explanation of why ACTCHS proposes or refuses to take the action;
- (3) A description of any other options that ACTCHS considered and the reasons why those options were rejected;
- (4) A description of each evaluation procedure, test, record, or report the District used as a basis for the proposed or refused action;
- (5) A description of any other factors that are relevant to ACTCHS's proposal or refusal;
- (6) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and
- (7) Sources for parents to contact to obtain assistance in understanding the provisions of this part.

(c) Notice in understandable language.

- (1) The notice required under paragraph (a) of this section must be—
- (i) Written in language understandable to the general public; and
- (ii) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.
- (2) If the native language or other mode of communication of the parent is not a written language, the public agency shall take steps to ensure—
- (i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
- (ii) That the parent understands the content of the notice; and
- (iii) That there is written evidence that the requirements in paragraphs (c)(2) (i) and (ii) of this section have been met.

§300.345. Parent participation.

(b) Information provided to parents.

- (1) The notice required under paragraph (a)(1) of this section must—
- (i) Indicate the purpose, time, and location of the meeting and who will be in attendance; and
- (ii) Inform the parents of the provisions in §300.344(a)(6) and (c) (relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the child).
- (2) For a student with a disability beginning at age 14, or younger, if appropriate, the notice must also—
- (i) Indicate that a purpose of the meeting will be the development of a statement of the transition services needs of the student required in §300.347(b)(1); and
- (ii) Indicate that the agency will invite the student.
- (3) For a student with a disability beginning at age 16, or younger, if appropriate, the notice must—
- (i) Indicate that a purpose of the meeting is the consideration of needed transition services for the student required in §300.347(b)(2);
- (ii) Indicate that the agency will invite the student; and
- (iii) Identify any other agency that will be invited to send a representative.

§26.0081. Right to Information Concerning Special Education.

- (a) The agency shall produce and provide to school districts sufficient copies of a comprehensive, easily understood document that explains the process by which an individualized education program is developed for a student in a special education program and the rights and responsibilities of a parent concerning the process. The document must include information a parent needs to effectively participate in an admission, review, and dismissal committee meeting for the parent's child.
- (b) The agency will ensure that each school district provides the document required under this section to the parent as provided by 20 U.S.C. Section 1415(b):
- (1) as soon as practicable after a child is referred to determine the child's eligibility for admission into the district's special education program, but at least five school days before the date of the initial meeting of the admission, review, and dismissal committee; and
- (2) at any other time on reasonable request of the child's parent.

§89.1045. Notice to Parents for Admission, Review, and Dismissal (ARD) Committee Meetings.

- (a) A district shall invite the parents and adult student to participate as members of the admission, review, and dismissal (ARD) committee by providing written notice in accordance with 34 Code of Federal Regulations (CFR), §§300.345, 300.503, and 300.505, and Part 300, Appendix A.

E. Evaluation of children to determine eligibility

(34 CFR 300.530-300.543; TEC 29.004; 19 TAC 89.1011; 19 TAC 89.1015; 19 TAC 89.1040)

§89.1011. Referral for Full and Individual Initial Evaluation.

Referral of students for a full and individual initial evaluation for possible special education services shall be a part of the district's overall, general education referral or screening system. Prior to referral, students experiencing difficulty in the general classroom should be considered for all support services available to all students, such as tutorial, remedial, compensatory, and other services. If the student continues to experience difficulty in the general classroom after the provision of interventions, district personnel must refer the student for a full and individual initial evaluation. This referral for a full and individual initial evaluation may be initiated by school personnel, the student's parents or legal guardian, or another person involved in the education or care of the student. The referral for a full and individual initial evaluation must be completed in accordance with Texas Education Code, §29.004, related to the 60 calendar day time line.

§29.004. Full Individual and Initial Evaluation.

A written report of a full individual and initial evaluation of a student for purposes of special education services shall be completed not later than the 60th calendar day following the date on which the referral for evaluation was initiated by school personnel, the student's parent or legal guardian, or another appropriate person. The evaluation shall be conducted using procedures that are appropriate for the student's most proficient method of communication.

§300.530. General.

Each SEA shall ensure that each public agency establishes and implements procedures that meet the requirements of §§300.531-300.536.

§300.531. Initial evaluation.

Each public agency shall conduct a full and individual initial evaluation, in accordance with §§300.532 and 300.533,

before the initial provision of special education and related services to a child with a disability under Part B of the Act.

§300.532. Evaluation procedures.

Each public agency shall ensure, at a minimum, that the following requirements are met:

- (a) (1) Tests and other evaluation materials used to assess a child under Part B of the Act—
 - (i) Are selected and administered so as not to be discriminatory on a racial or cultural basis; and
 - (ii) Are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so; and
- (2) Materials and procedures used to assess a child with limited English proficiency are selected and administered to ensure that they measure the extent to which the child has a disability and needs special education, rather than measuring the child's English language skills.
- (b) A variety of assessment tools and strategies are used to gather relevant functional and developmental information about the child, including information provided by the parent, and information related to enabling the child to be involved in and progress in the general curriculum (or for a preschool child, to participate in appropriate activities), that may assist in determining—
 - (1) Whether the child is a child with a disability under §300.7; and
 - (2) The content of the child's IEP.
- (c) (1) Any standardized tests that are given to a child—
 - (i) Have been validated for the specific purpose for which they are used; and
 - (ii) Are administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests.
- (2) If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test, or the method of test administration) must be included in the evaluation report.
- (d) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
- (e) Tests are selected and administered so as best to ensure that if a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).
- (f) No single procedure is used as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child.
- (g) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.
- (h) In evaluating each child with a disability under §§300.531-300.536, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.
- (i) The public agency uses technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
- (j) The public agency uses assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child.

§300.533. Determination of needed evaluation data.

- (a) Review of existing evaluation data. As part of an initial evaluation (if appropriate) and as part of any reevaluation under Part B of the Act, a group that includes the individuals described in §300.344, and other qualified professionals, as appropriate, shall—
 - (1) Review existing evaluation data on the child, including—
 - (i) Evaluations and information provided by the parents of the child;
 - (ii) Current classroom-based assessments and observations; and
 - (2) Observations by teachers and related services providers; and
- (2) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine—
 - (i) Whether the child has a particular category of disability, as described in §300.7, or, in case of a reevaluation of a child, whether the child continues to have such a disability;
 - (ii) The present levels of performance and educational needs of the child;

- (iii) Whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and
- (iv) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general curriculum.
- (b) Conduct of review. The group described in paragraph (a) of this section may conduct its review without a meeting.
- (c) Need for additional data. The public agency shall administer tests and other evaluation materials as may be needed to produce the data identified under paragraph (a) of this section.
 - (d) Requirements if additional data are not needed.
- (1) If the determination under paragraph (a) of this section is that no additional data are needed to determine whether the child continues to be a child with a disability, the public agency shall notify the child's parents—
 - (i) Of that determination and the reasons for it; and
- (ii) Of the right of the parents to request an assessment to determine whether, for purposes of services under this part, the child continues to be a child with a disability.
- (2) The public agency is not required to conduct the assessment described in paragraph (d)(1)(ii) of this section unless requested to do so by the child's parents.

§89.1040. Eligibility Criteria.

- (a) Special education services. To be eligible to receive special education services, a student must be a "child with a disability," as defined in 34 Code of Federal Regulations (CFR), §300.7(a), subject to the provisions of 34 CFR, §300.7(c), the Texas Education Code (TEC), §29.003, and this section. The provisions in this section specify criteria to be used in determining whether a student's condition meets one or more of the definitions in federal regulations or in state law.
- (b) Eligibility determination. The determination of whether a student is eligible for special education and related services is made by the student's admission, review, and dismissal (ARD) committee. Any evaluation or re-evaluation of a student shall be conducted in accordance with 34 CFR, §§300.530-300.536. The multidisciplinary team that collects or reviews evaluation data in connection with the determination of a student's eligibility must include, but is not limited to, the following:
 - (1) a licensed specialist in school psychology (LSSP), an educational diagnostician, or other appropriately certified or licensed practitioner with experience and training in the area of the disability; or
 - (2) a licensed or certified professional for a specific eligibility category defined in subsection (c) of this section.
- §300.534. Determination of eligibility
 - (a) Upon completing the administration of tests and other evaluation materials—
 - (1) A group of qualified professionals and the parent of the child must determine whether the child is a child with a disability, as defined in §300.7; and
 - (2) The public agency must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.
 - (b) A child may not be determined to be eligible under this part if—
 - (1) The determinant factor for that eligibility determination is—
 - (i) Lack of instruction in reading or math; or
 - (ii) Limited English proficiency; and
 - (2) The child does not otherwise meet the eligibility criteria under §300.7(a).
- (c)
 - (1) A public agency must evaluate a child with a disability in accordance with §§300.532 and 300.533 before determining that the child is no longer a child with a disability.
 - (2) The evaluation described in paragraph (c)(1) of this section is not required before the termination of a student's eligibility under Part B of the Act due to graduation with a regular high school diploma, or exceeding the age eligibility for FAPE under State law.
- §300.535. Procedures for determining eligibility and placement.
 - (a) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under §300.7, and the educational needs of the child, each public agency shall—
 - (1) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and
 - (2) Ensure that information obtained from all of these sources is documented and carefully considered.
 - (b) If a determination is made that a child has a disability and needs special education and related services, an IEP

must be developed for the child in accordance with §§300.340-300.350.

§300.536. Reevaluation.

Each public agency shall ensure—

- (a) That the IEP of each child with a disability is reviewed in accordance with §§300.340-300.350; and
- (b) That a reevaluation of each child, in accordance with §§300.532-300.535, is conducted if conditions warrant a reevaluation, or if the child's parent or teacher requests a reevaluation, but at least once every three years.

§300.540. Additional team members.

The determination of whether a child suspected of having a specific learning disability is a child with a disability as defined in §300.7, must be made by the child's parents and a team of qualified professionals which must include—

- (a) (1) The child's regular teacher; or
- (2) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or
- (3) For a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and
- (b) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.

§300.541. Criteria for determining the existence of a specific learning disability.

(a) A team may determine that a child has a specific learning disability if—

- (1) The child does not achieve commensurate with his or her age and ability levels in one or more of the areas listed in paragraph (a)(2) of this section, if provided with learning experiences appropriate for the child's age and ability levels; and

- (2) The team finds that a child has a severe discrepancy between achievement and intellectual ability in one or more of the following areas:

- (i) Oral expression.
- (ii) Listening comprehension.
- (iii) Written expression.
- (iv) Basic reading skill.
- (v) Reading comprehension.
- (vi) Mathematics calculation.
- (vii) Mathematics reasoning.

- (b) The team may not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of—

- (1) A visual, hearing, or motor impairment;
- (2) Mental retardation;
- (3) Emotional disturbance; or
- (4) Environmental, cultural or economic disadvantage.

§300.542. Observation.

- (a) At least one team member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting.

- (b) In the case of a child of less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.

§300.543. Written report.

- (a) For a child suspected of having a specific learning disability, the documentation of the team's determination of eligibility, as required by §300.534(a)(2), must include a statement of—

- (1) Whether the child has a specific learning disability;
- (2) The basis for making the determination;
- (3) The relevant behavior noted during the observation of the child;
- (4) The relationship of that behavior to the child's academic functioning;
- (5) The educationally relevant medical findings, if any;

- (6) Whether there is a severe discrepancy between achievement and ability that is not correctable without special education and related services; and

- (7) The determination of the team concerning the effects of environmental, cultural, or economic disadvantage.

- (b) Each team member shall certify in writing whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the team member must submit a separate statement presenting his or her conclusions.

F. Development and implementation of the individualized educational program (IEP); Extended school year (ESY) services (34 CFR 300.342-300.350; 34 CFR 300.309; TEC 37.0021; 19 TAC 89.1050; 19 TAC 89.1053; 19 TAC 89.1055; 19 TAC 89.1065)

§ 89.1050(a) (ARD committee)

(a) Each school district shall establish an admission, review, and dismissal (ARD) committee for each eligible student with a disability and for each student for whom a full and individual initial evaluation is conducted pursuant to §89.1011 of this title (relating to Referral for Full and Individual Initial Evaluation). The ARD committee shall be the individualized education program (IEP) team defined in federal law and regulations, including, specifically, 34 Code of Federal Regulations (CFR), §300.344. The school district shall be responsible for all of the functions for which the IEP team is responsible under federal law and regulations and for which the ARD committee is responsible under state law, including, specifically, the following:

§ 89.1050(d) (30 day timeline)

(d) ARD committee shall make its decisions regarding students referred for a full and individual initial evaluation within 30 calendar days from the date of the completion of the written full and individual initial evaluation report. If the 30th day falls during the summer and school is not in session, the ARD committee shall have until the first day of classes in the fall to finalize decisions concerning the initial eligibility determination, the IEP, and placement, unless the full and individual initial evaluation indicates that the student will need extended school year (ESY) services during that summer.

§89.1045. Notice to Parents for Admission, Review, and Dismissal (ARD) Committee Meetings.

(b) A parent may request an ARD committee meeting at any mutually agreeable time to address specific concerns about his or her child's special education services. The school district must respond to the parent's request either by holding the requested meeting or by requesting assistance through the Texas Education Agency's mediation process. The district should inform parents of the functions of the ARD committee and the circumstances or types of problems for which requesting an ARD committee meeting would be appropriate.

§300.342. When IEPs must be in effect.

(a) General. At the beginning of each school year, each public agency shall have an IEP in effect for each child with a disability within its jurisdiction.

(b) Implementation of IEPs. Each public agency shall ensure that—

(1) An IEP—

- (i) Is in effect before special education and related services are provided to an eligible child under this part; and
- (ii) Is implemented as soon as possible following the meetings described under §300.343;
- (2) The child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation; and
- (3) Each teacher and provider described in paragraph (b)(2) of this section is informed of—
 - (i) His or her specific responsibilities related to implementing the child's IEP; and
 - (ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

(c) IEP or IFSP for children aged 3 through 5.

(1) In the case of a child with a disability aged 3 through 5 (or, at the discretion of the SEA a 2-year-old child with a disability who will turn age 3 during the school year), an IFSP that contains the material described in section 636 of the Act, and that is developed in accordance with §§300.341-300.346 and §§300.349-300.350, may serve as the IEP of the child if using that plan as the IEP is—

(i) Consistent with State policy; and

(ii) Agreed to by the agency and the child's parents.

(2) In implementing the requirements of paragraph (c)(1) of this section, the public agency shall—

- (i) Provide to the child's parents a detailed explanation of the differences between an IFSP and an IEP; and
- (ii) If the parents choose an IFSP, obtain written informed consent from the parents.

(d) Effective date for new requirements. All IEPs developed, reviewed, or revised on or after July 1, 1998 must meet the requirements of §§300.340-300.350.

§ 89.1050 (b) (IFSP /IEP)

(b) For a child from birth through two years of age with visual and/or auditory impairments, an individualized family services plan (IFSP) meeting must be held in place of an ARD committee meeting in accordance with 34 CFR, §§303.340-303.346, and the memorandum of understanding between the Texas Education Agency (TEA) and Texas Interagency Council on Early Childhood Intervention. For students three years of age and older, school districts must

develop an IEP.

§ 89.1050 (f) For a student who is new to a school district:

- (1) when a student transfers within the state, the ARD committee may, but is not required to, meet when the student enrolls and a copy of the student's IEP is available, the parent(s) indicate in writing that they are satisfied with the current IEP, and the district determines that the current IEP is appropriate and can be implemented as written; or
- (2) if the conditions of subsection (f)(1) of this section are not met, then the ARD committee must meet when the student enrolls and the parents verify that the student was receiving special education services in the previous school district, or the previous school district verifies in writing or by telephone that the student was receiving special education services. At this meeting, the ARD committee must do one of the following:
 - (A) the ARD committee may determine that it has appropriate evaluation data and other information to develop and begin implementation of a complete IEP for the student; or
 - (B) the ARD committee may determine that valid evaluation data and other information from the previous school district are insufficient or unavailable to develop a complete IEP. In this event, the ARD committee may authorize the provision of temporary special education services pending receipt of valid evaluation data from the previous school district or the collection of new evaluation data by the current school district. In this situation, a second ARD committee meeting must be held within 30 school days from the date of the first ARD committee meeting to finalize or develop an IEP based on current information.
- (3) In accordance with TEC, §25.002, the school district in which the student was previously enrolled shall furnish the new school district with a copy of the student's records, including the child's special education records, not later than the 30th calendar day after the student was enrolled in the new school district. The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., §1232g, does not require the student's current and previous school districts to obtain parental consent before requesting or sending the student's special education records if the disclosure is conducted in accordance with 34 CFR, §99.31(a)(2) and §99.34.

§300.300.121 Free appropriate public education (FAPE).

- (a) General. Each State must have on file with the Secretary information that shows that, subject to Sec. 300.122, the State has in effect a policy that ensures that all children with disabilities aged 3 through 21 residing in the State have the right to FAPE, including children with disabilities who have been suspended or expelled from school.
 - (b) Required information. The information described in paragraph (a) of this section must--
 - (1) Include a copy of each State statute, court order, State Attorney General opinion, and other State documents that show the source of the State's policy relating to FAPE; and
 - (2) Show that the policy--
 - (i)(A) Applies to all public agencies in the State; and
 - (B) Is consistent with the requirements of Secs. 300.300-300.313; and
 - (ii) Applies to all children with disabilities, including children who have been suspended or expelled from school.
 - (c) FAPE for children beginning at age 3. (1) Each State shall ensure that--
 - (i) The obligation to make FAPE available to each eligible child residing in the State begins no later than the child's third birthday; and
 - (ii) An IEP or an IFSP is in effect for the child by that date, in accordance with Sec. 300.342(c).
 - (2) If a child's third birthday occurs during the summer, the child's IEP team shall determine the date when services under the IEP or IFSP will begin.
 - (d) FAPE for children suspended or expelled from school. (1) ACTCHS need not provide services during periods of removal under Sec. 300.520(a)(1) to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if services are not provided to a child without disabilities who has been similarly removed.
 - (2) In the case of a child with a disability who has been removed from his or her current placement for more than 10 school days in that school year, the public agency, for the remainder of the removals, must--
 - (i) Provide services to the extent necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP, if the removal is--
 - (A) Under the school personnel's authority to remove for not more than 10 consecutive school days as long as that removal does not constitute a change of placement under Sec. 300.519(b) (Sec. 300.520(a)(1)); or
 - (B) For behavior that is not a manifestation of the child's disability, consistent with Sec. 300.524; and
 - (ii) Provide services consistent with Sec. 300.522, regarding determination of the appropriate interim alternative educational setting, if the removal is--
 - (A) For drug or weapons offenses under Sec. 300.520(a)(2); or

- (B) Based on a hearing officer determination that maintaining the current placement of the child is substantially likely to result in injury to the child or to others if he or she remains in the current placement, consistent with Sec. 300.521.
- (3)(i) School personnel, in consultation with the child's special education teacher, determine the extent to which services are necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP if the child is removed under the authority of school personnel to remove for not more than 10 consecutive school days as long as that removal does not constitute a change of placement under Sec. 300.519 (Sec. 300.520(a)(1)).
- (ii) The child's IEP team determines the extent to which services are necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP if the child is removed because of behavior that has been determined not to be a manifestation of the child's disability, consistent with Sec. 300.524.
- (e) Children advancing from grade to grade. (1) ACTCHS shall ensure that FAPE is available to any individual child with a disability who needs special education and related services, even though the child is advancing from grade to grade.
- (2) The determination that a child described in paragraph (a)(1) of this section is eligible under this part, must be made on an individual basis by the group responsible within the child's LEA for making those determinations.
- §300.343. IEP meetings.
- (a) General. ACTCHS is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability (or, if consistent with §300.342(c), an IFSP).
- (b) Initial IEPs; provision of services. (1) ACTCHS shall ensure that within a reasonable period of time following the agency's receipt of parent consent to an initial evaluation of a child—
 - (i) The child is evaluated; and
 - (ii) If determined eligible under this part, special education and related services are made available to the child in accordance with an IEP.
- (2) In meeting the requirement in paragraph (b)(1) of this section, a meeting to develop an IEP for the child must be conducted within 30-days of a determination that the child needs special education and related services.
- (c) Review and revision of IEPs. ACTCHS shall ensure that the IEP team—
 - (1) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and
 - (2) Revises the IEP as appropriate to address—
- (i) Any lack of expected progress toward the annual goals described in §300.347(a), and in the general curriculum, if appropriate;
 - (ii) The results of any reevaluation conducted under §300.536;
- (iii) Information about the child provided to, or by, the parents, as described in §300.533(a)(1);
 - (iv) The child's anticipated needs; or
 - (v) Other matters.
- §300.344. IEP team.
- (a) General. ACTISD shall ensure that the IEP team for each child with a disability includes—
 - (1) The parents of the child;
- (2) At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
- (3) At least one special education teacher of the child, or if appropriate, at least one special education provider of the child;
- (4) A representative of the public agency who—
 - (i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
 - (ii) Is knowledgeable about the general curriculum; and
 - (iii) Is knowledgeable about the availability of resources of the public agency;
- (5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (6) of this section;
- (6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
 - (7) If appropriate, the child.
- (b) Transition services participants.
- (1) Under paragraph (a)(7) of this section, ACTCHS shall invite a student with a disability of any age to attend his or

her IEP meeting if a purpose of the meeting will be the consideration of—

- (i) The student's transition services needs under §300.347(b)(1);
- (ii) The needed transition services for the student under §300.347(b)(2); or
- (iii) Both.

(2) If the student does not attend the IEP meeting, the public agency shall take other steps to ensure that the student's preferences and interests are considered.

(3) (i) In implementing the requirements of §300.347(b)(2), the public agency also shall invite a representative of any other agency that is likely to be responsible for providing or paying for transition services.

(ii) If an agency invited to send a representative to a meeting does not do so, the public agency shall take other steps to obtain participation of the other agency in the planning of any transition services.

(c) Determination of knowledge and special expertise. The determination of the knowledge or special expertise of any individual described in paragraph (a)(6) of this section shall be made by the party (parents or public agency) who invited the individual to be a member of the IEP.

(d) Designating a public agency representative. A public agency may designate another public agency member of the IEP team to also serve as the agency representative, if the criteria in paragraph (a)(4) of this section are satisfied.

§89.1050 (c) (Teacher member requirements)

(c) At least one general education teacher of the student (if the student is, or may be, participating in the general education environment) shall participate as a member of the ARD committee. The special education teacher or special education provider that participates in the ARD committee meeting in accordance with 34 CFR, §300.344(a)(3), must be certified in the child's suspected areas of disability. When a specific certification is not required to serve certain disability categories, then the special education teacher or special education provider must be qualified to provide the educational services that the child may need. Districts should refer to §89.1131 of this title (relating to Qualifications of Special Education, Related Service, and Paraprofessional Personnel) to ensure that appropriate teachers and/or service providers are present and participate at each ARD committee meeting.

§300.345. Parent participation.

(a) District responsibility—general. ACTCHS shall take steps to ensure that one or both of the parents of a child with a disability are present at each IEP meeting or are afforded the opportunity to participate, including—

(1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and

(2) Scheduling the meeting at a mutually agreed on time and place.

(c) Other methods to ensure parent participation. If neither parent can attend, the public agency shall use other methods to ensure parent participation, including individual or conference telephone calls.

(d) Conducting an IEP meeting without a parent in attendance. A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case the public agency must have a record of its attempts to arrange a mutually agreed on time and place, such as—

(1) Detailed records of telephone calls made or attempted and the results of those calls;

(2) Copies of correspondence sent to the parents and any responses received; and

(3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

(e) Use of interpreters or other action, as appropriate. The public agency shall take whatever action is necessary to ensure that the parent understands the proceedings at the IEP meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.

(f) Parent copy of child's IEP. The public agency shall give the parent a copy of the child's IEP at no cost to the parent.

§300.346. Development, review, and revision of IEP.

(a) Development of IEP.

(1) General. In developing each child's IEP, the IEP team, shall consider—

(i) The strengths of the child and the concerns of the parents for enhancing the education of their child;

(ii) The results of the initial or most recent evaluation of the child; and

(iii) As appropriate, the results of the child's performance on any general State or district-wide assessment programs.

(2) Consideration of special factors. The IEP team also shall—

(i) In the case of a child whose behavior impedes his or her learning or that of others, consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior;

(ii) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;

(iii) In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille

unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;

(iv) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and

(v) Consider whether the child requires assistive technology devices and services.

(b) Review and Revision of IEP. In conducting a meeting to review, and, if appropriate, revise a child's IEP, the IEP team shall consider the factors described in paragraph (a) of this section.

(c) Statement in IEP. If, in considering the special factors described in paragraphs (a)(1) and (2) of this section, the IEP team determines that a child needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the child to receive FAPE, the IEP team must include a statement to that effect in the child's IEP.

(d) Requirement with respect to regular education teacher. The regular education teacher of a child with a disability, as a member of the IEP team, must, to the extent appropriate, participate in the development, review, and revision of the child's IEP, including assisting in the determination of—

(1) Appropriate positive behavioral interventions and strategies for the child; and

(2) Supplementary aids and services, program modifications or supports for school personnel that will be provided for the child, consistent with §300.347(a)(3).

§300.347. Content of IEP.

(a) General. The IEP for each child with a disability must include—

(1) A statement of the child's present levels of educational performance, including—

(i) How the child's disability affects the child's involvement and progress in the general curriculum (i.e., the same curriculum as for nondisabled children); or

(2) A statement of measurable annual goals, including benchmarks or short-term objectives, related to—

(i) Meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum (i.e., the same curriculum as for nondisabled children), or for preschool children; and

(ii) Meeting each of the child's other educational needs that result from the child's disability;

(3) A statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child—

(i) To advance appropriately toward attaining the annual goals;

(ii) To be involved and progress in the general curriculum in accordance with paragraph (a)(1) of this section and to participate in extracurricular and other nonacademic activities; and

(iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;

(4) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a)(3) of this section;

(5) (i) A statement of any individual modifications in the administration of State or district-wide assessments of student achievement that are needed in order for the child to participate in the assessment; and

(ii) If the IEP team determines that the child will not participate in a particular State or district-wide assessment of student achievement (or part of an assessment), a statement of—

(A) Why that assessment is not appropriate for the child; and

(B) How the child will be assessed;

(6) The projected date for the beginning of the services and modifications described in paragraph (a)(3) of this section, and the anticipated frequency, location, and duration of those services and modifications; and

(7) A statement of—

(i) How the child's progress toward the annual goals described in paragraph (a)(2) of this section will be measured; and

(ii) How the child's parents will be regularly informed (through such means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress, of—

(A) Their child's progress toward the annual goals; and

(B) The extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.

(b) Transition services. The IEP must include—

- (1) For each student with a disability beginning at age 14 (or younger, if determined appropriate by the IEP team), and updated annually, a statement of the transition service needs of the student under the applicable components of the student's IEP that focuses on the student's courses of study (such as participation in advanced-placement courses or a vocational education program); and
 - (2) For each student beginning at age 16 (or younger, if determined appropriate by the IEP team), a statement of needed transition services for the student, including, if appropriate, a statement of the interagency responsibilities or any needed linkages.
- (c) Transfer of rights. In a State that transfers rights at the age majority, beginning at least one year before a student reaches the age of majority under State law, the student's IEP must include a statement that the student has been informed of his or her rights under Part B of the Act, if any, that will transfer to the student on reaching the age of majority, consistent with §300.517.

§89.1055. Content of the Individualized Education Program (IEP).

- (a) The individualized education program (IEP) developed by the admission, review, and dismissal (ARD) committee for each student with a disability shall comply with the requirements of 34 Code of Federal Regulations (CFR), §300.346 and §300.347, and Part 300, Appendix A.
- (b) The IEP must include a statement of any individual allowable accommodations in the administration of assessment instruments developed in accordance with Texas Education Code (TEC), §39.023(a)-(c), or district-wide assessments of student achievement that are needed in order for the student to participate in the assessment. If the ARD committee determines that the student will not participate in a particular state- or district-wide assessment of student achievement (or part of an assessment), the IEP must include a statement of:
 - (1) why that assessment is not appropriate for the child; and
 - (2) how the child will be assessed using a locally developed alternate assessment.
- (c) If the ARD committee determines that the student is in need of extended school year (ESY) services, as described in §89.1065 of this title (relating to Extended School Year Services (ESY Services)), then the IEP must also include goals and objectives for ESY services from the student's current IEP.
- (d) For students with visual impairments, from birth through 21 years of age, the IEP or individualized family services plan (IFSP) shall also meet the requirements of TEC, §30.002(e).
- (e) For students with autism/pervasive developmental disorders, information about the following shall be considered and, when needed, addressed in the IEP:
 - (1) extended educational programming;
 - (2) daily schedules reflecting minimal unstructured time;
 - (3) in-home training or viable alternatives;
 - (4) prioritized behavioral objectives;
 - (5) prevocational and vocational needs of students 12 years of age or older;
 - (6) parent training; and
 - (7) suitable staff-to-students ratio.
- (f) If the ARD committee determines that services are not needed in one or more of the areas specified in subsection (e)(1)-(7) of this section, the IEP must include a statement to that effect and the basis upon which the determination was made.

§89.1050(e) (The report)

- (e) The written report of the ARD committee shall document the decisions of the committee with respect to issues discussed at the meeting. The report shall include the date, names, positions, and signatures of the members participating in each meeting in accordance with 34 CFR, §§300.344, 300.345, 300.348, and 300.349. The report shall also indicate each member's agreement or disagreement with the committee's decisions. In the event TEC, §29.005(d) (1), applies, the district shall provide a written or audiotaped copy of the student's IEP, as defined in 34 CFR, §300.346 and §300.347. In the event TEC, §29.005(d)(2), applies, the district shall make a good faith effort to provide a written or audiotaped copy of the student's IEP, as defined in 34 CFR, §300.346 and §300.347.

§300.348. Agency responsibilities for transition services.

- (a) If a participating agency, other than the public agency, fails to provide the transition services described in the IEP in accordance with §300.347(b)(1), the public agency shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.

§300.350. IEP accountability.

(a) Provision of services. Subject to paragraph (b) of this section, each public agency must—

- (1) Provide special education and related services to a child with a disability in accordance with the child's IEP; and
 - (2) Make a good faith effort to assist the child to achieve the goals and objectives or benchmarks listed in the IEP.
- §300.309. Extended school year services.

(a) General.

- (1) Each public agency shall ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section.
- (2) Extended school year services must be provided only if a child's IEP team determines, on an individual basis, in accordance with §§300.340-300.350, that the services are necessary for the provision of FAPE to the child.
- (3) In implementing the requirements of this section, a public agency may not—
 - (i) Limit extended school year services to particular categories of disability; or
 - (ii) Unilaterally limit the type, amount, or duration of those services.

(b) Definition. As used in this section, the term extended school year services means special education and related services that—

- (1) Are provided to a child with a disability—
 - (i) Beyond the normal school year of the public agency;
 - (ii) In accordance with the child's IEP; and
 - (iii) At no cost to the parents of the child; and
- (2) Meet the standards of the SEA.

§89.1065. Extended School Year Services (ESY Services).

Extended school year (ESY) services are defined as individualized instructional programs beyond the regular school year for eligible students with disabilities.

- (1) The need for ESY services must be determined on an individual student basis by the admission, review, and dismissal (ARD) committee in accordance with 34 Code of Federal Regulations (CFR), §300.309, and the provisions of this section. In determining the need for and in providing ESY services, a school district may not:
 - (A) limit ESY services to particular categories of disability; or
 - (B) unilaterally limit the type, amount, or duration of ESY services.
- (2) The need for ESY services must be documented from formal and/or informal evaluations provided by the district or the parents. The documentation shall demonstrate that in one or more critical areas addressed in the current individualized education program (IEP) objectives, the student has exhibited, or reasonably may be expected to exhibit, severe or substantial regression that cannot be recouped within a reasonable period of time. Severe or substantial regression means that the student has been, or will be, unable to maintain one or more acquired critical skills in the absence of ESY services.
- (3) The reasonable period of time for recoupment of acquired critical skills shall be determined on the basis of needs identified in each student's IEP. If the loss of acquired critical skills would be particularly severe or substantial, or if such loss results, or reasonably may be expected to result, in immediate physical harm to the student or to others, ESY services may be justified without consideration of the period of time for recoupment of such skills. In any case, the period of time for recoupment shall not exceed eight weeks.
- (4) A skill is critical when the loss of that skill results, or is reasonably expected to result, in any of the following occurrences during the first eight weeks of the next regular school year:
 - (A) placement in a more restrictive instructional arrangement;
 - (B) significant loss of acquired skills necessary for the student to appropriately progress in the general curriculum;
 - (C) significant loss of self-sufficiency in self-help skill areas as evidenced by an increase in the number of direct service staff and/or amount of time required to provide special education or related services;
 - (D) loss of access to community-based independent living skills instruction or an independent living environment provided by noneducational sources as a result of regression in skills; or
 - (E) loss of access to on-the-job training or productive employment as a result of regression in skills.
- (5) If the district does not propose ESY services for discussion at the annual review of a student's IEP, the parent may request that the ARD committee discuss ESY services pursuant to 34 CFR, §300.344.
- (6) If a student for whom ESY services were considered and rejected loses critical skills because of the decision not to provide ESY services, and if those skills are not regained after the reasonable period of time for recoupment, the ARD committee shall reconsider the current IEP if the student's loss of critical skills interferes with the implementation of the student's IEP.
- (7) For students enrolling in a district during the school year, information obtained from the prior school district

as well as information collected during the current year may be used to determine the need for ESY services.

(8) The provision of ESY services is limited to the educational needs of the student and shall not supplant or limit the responsibility of other public agencies to continue to provide care and treatment services pursuant to policy or practice, even when those services are similar to, or the same as, the services addressed in the student's IEP. No student shall be denied ESY services because the student receives care and treatment services under the auspices of other agencies.

(9) Districts are not eligible for reimbursement for ESY services provided to students for reasons other than those set forth in this section.

§89.1050(g) (Discipline)

(g) All disciplinary actions regarding students with disabilities shall be determined in accordance with 34 CFR, §§300.121 and 300.519-300.529 (relating to disciplinary actions and procedures), the TEC, Chapter 37, Subchapter A (Alternative Settings for Behavior Management), and §89.1053 of this title (relating to Procedures for Use of Restraint and Time-Out).

§89.1050(h) (Disagreements)

(h) All members of the ARD committee shall have the opportunity to participate in a collaborative manner in developing the IEP. A decision of the committee concerning required elements of the IEP shall be made by mutual agreement of the required members if possible. The committee may agree to an annual IEP or an IEP of shorter duration.

(1) When mutual agreement about all required elements of the IEP is not achieved, the party (the parents or adult student) who disagrees shall be offered a single opportunity to have the committee recess for a period of time not to exceed ten school days. This recess is not required when the student's presence on the campus presents a danger of physical harm to the student or others or when the student has committed an expellable offense or an offense which may lead to a placement in an alternative education program (AEP). The requirements of this subsection (h) do not prohibit the members of the ARD committee from recessing an ARD committee meeting for reasons other than the failure of the parents and the school district from reaching mutual agreement about all required elements of an IEP.

(2) During the recess the committee members shall consider alternatives, gather additional data, prepare further documentation, and/or obtain additional resource persons which may assist in enabling the ARD committee to reach mutual agreement.

(3) The date, time, and place for continuing the ARD committee meeting shall be determined by mutual agreement prior to the recess.

(4) If a ten-day recess is implemented as provided in paragraph (1) of this subsection and the ARD committee still cannot reach mutual agreement, the district shall implement the IEP which it has determined to be appropriate for the student.

(5) When mutual agreement is not reached, a written statement of the basis for the disagreement shall be included in the IEP. The members who disagree shall be offered the opportunity to write their own statements.

(6) When a district implements an IEP with which the parents disagree or the adult student disagrees, the district shall provide prior written notice to the parents or adult student as required in 34 CFR, §300.503.

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

§37.0021. Use of Confinement, Restraint, Seclusion, and Time-Out.

(a) It is the policy of this state to treat all students with dignity and respect. A student with a disability may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique.

(b) In this section:

(1) "Restraint" means the use of physical force or a mechanical device to restrict the free movement of all or a portion of a student's body.

(2) "Seclusion" means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:

(A) is designed solely to seclude a person; and

(B) contains less than 50 square feet of space.

(3) "Time-out" means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

(A) that is not locked; and

(B) from which the student is not physically prevented from leaving.

(c) A school district employee or volunteer or an independent contractor of a district may not place a student in seclusion. This subsection does not apply to the use of seclusion in a facility to which the following law, rules, or

regulations apply:

- (1) the Children's Health Act of 2000, Pub. L. No. 106-310, any subsequent amendments to that Act, any regulations adopted under that Act, or any subsequent amendments to those regulations;
 - (2) 40 T.A.C. Sections 720.1001-720.1013; or
 - (3) 25 T.A.C. Section 412.308(e).
- (d) The commissioner by rule shall adopt procedures for the use of restraint and time-out by a school district employee or volunteer or an independent contractor of a district in the case of a student receiving special education services under Subchapter A, Chapter 29. A procedure adopted under this subsection must:
- (1) be consistent with:
 - (A) professionally accepted practices and standards of student discipline and techniques for behavior management; and
 - (B) relevant health and safety standards; and
 - (2) identify any discipline management practice or behavior management technique that requires a district employee or volunteer or an independent contractor of a district to be trained before using that practice or technique. (e) In the case of a conflict between a rule adopted under Subsection (d) and a rule adopted under Subchapter A, Chapter 29, the rule adopted under Subsection (d) controls.
- (f) For purposes of this subsection, "weapon" includes any weapon described under Section 37.007(a)(1). This section does not prevent a student's locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:
- (1) the student possesses a weapon; and
 - (2) the confinement is necessary to prevent the student from causing bodily harm to the student or another person.
- §89.1053. Procedures for Use of Restraint and Time-Out.
- (a) Requirement to implement. In addition to the requirements of 34 Code of Federal Regulations (CFR), §300.346(a)(2)(i) and (c), school districts and charter schools must implement the provisions of this section regarding the use of restraint and time-out. In accordance with the provisions of Texas Education Code (TEC), §37.0021 (Use of Confinement, Restraint, Seclusion, and Time-Out), it is the policy of the state to treat all students with dignity and respect.
- (b) Definitions.
- (1) Emergency means a situation in which a student's behavior poses a threat of:
 - (A) imminent, serious physical harm to the student or others; or
 - (B) imminent, serious property destruction.
 - (2) Restraint means the use of physical force or a mechanical device to restrict the free movement of all or a portion of the student's body.
 - (3) Time-out means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:
 - (A) that is not locked; and
 - (B) from which the student is not physically prevented from leaving.
 - (c) Use of restraint. A school employee, volunteer, or independent contractor may use restraint only in an emergency as defined in subsection (b) of this section and with the following limitations.
 - (1) Restraint shall be limited to the use of such reasonable force as is necessary to address the emergency.
 - (2) Restraint shall be discontinued at the point at which the emergency no longer exists.
 - (3) Restraint shall be implemented in such a way as to protect the health and safety of the student and others.
 - (4) Restraint shall not deprive the student of basic human necessities.
 - (d) Training on use of restraint. Training for school employees, volunteers, or independent contractors shall be provided according to the following requirements.
 - (1) Not later than April 1, 2003, a core team of personnel on each campus must be trained in the use of restraint, and the team must include a campus administrator or designee and any general or special education personnel likely to use restraint.
 - (2) After April 1, 2003, personnel called upon to use restraint in an emergency and who have not received prior training must receive training within 30 school days following the use of restraint.
 - (3) Training on use of restraint must include prevention and de-escalation techniques and provide alternatives to the use of restraint.
 - (4) All trained personnel shall receive instruction in current professionally accepted practices and standards regarding behavior management and the use of restraint.
 - (e) Documentation and notification on use of restraint. In a case in which restraint is used, school employees, volunteers,

or independent contractors shall implement the following documentation requirements.

- (1) On the day restraint is utilized, the campus administrator or designee must be notified verbally or in writing regarding the use of restraint.
- (2) On the day restraint is utilized, a good faith effort shall be made to verbally notify the parent(s) regarding the use of restraint.
- (3) Written notification of the use of restraint must be placed in the mail or otherwise provided to the parent within one school day of the use of restraint.
- (4) Written documentation regarding the use of restraint must be placed in the student's special education eligibility folder in a timely manner so the information is available to the ARD committee when it considers the impact of the student's behavior on the student's learning and/or the creation or revision of a behavioral intervention plan (BIP).
- (5) Written notification to the parent(s) and documentation to the student's special education eligibility folder shall include the following:
 - (A) name of the student;
 - (B) name of the staff member(s) administering the restraint;
 - (C) date of the restraint and the time the restraint began and ended;
 - (D) location of the restraint;
 - (E) nature of the restraint;
 - (F) a description of the activity in which the student was engaged immediately preceding the use of restraint;
 - (G) the behavior that prompted the restraint;
 - (H) the efforts made to de-escalate the situation and alternatives to restraint that were attempted; and
 - (I) information documenting parent contact and notification.
- (f) Clarification regarding restraint. For the purposes of subsections (c)-(e) of this section, restraint does not include the use of:
 - (1) physical contact or appropriately prescribed adaptive equipment to promote normative body positioning and/or physical functioning;
 - (2) limited physical contact with a student to promote safety (e.g., holding a student's hand), prevent a potentially harmful action (e.g., running into the street), teach a skill, or provide comfort;
 - (3) limited physical contact or appropriately prescribed adaptive equipment to prevent a student from engaging in ongoing, repetitive self-injurious behaviors; or
 - (4) seat belts and other safety equipment used to secure students during transportation.
- (g) Use of time-out. A school employee, volunteer, or independent contractor may use time-out in accordance with subsection (b)(3) of this section with the following limitations.
 - (1) Physical force or threat of physical force shall not be used to place a student in time-out.
 - (2) Time-out may only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student's individualized education program (IEP) and/or BIP if it is utilized on a recurrent basis to increase or decrease a targeted behavior.
 - (3) Use of time-out shall not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.
- (h) Training on use of time-out. Training for school employees, volunteers, or independent contractors shall be provided according to the following requirements.
 - (1) Not later than April 1, 2003, general or special education personnel who implement time-out based on requirements established in a student's IEP and/or BIP must be trained in the use of time-out.
 - (2) After April 1, 2003, newly-identified personnel called upon to implement time-out based on requirements established in a student's IEP and/or BIP must receive training in the use of time-out within 30 school days of being assigned the responsibility for implementing time-out.
 - (3) Training on the use of time-out must be provided as part of a program which addresses a full continuum of positive behavioral intervention strategies, and must address the impact of time-out on the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.
 - (4) All trained personnel shall receive instruction in current professionally accepted practices and standards regarding behavior management and the use of time-out.
- (i) Documentation on use of time-out. Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in the IEP or BIP. The admission, review, and dismissal (ARD) committee must use any collected data

to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use.

(j) Student safety. Any behavior management technique and/or discipline management practice must be implemented in such a way as to protect the health and safety of the student and others. No discipline management practice may be calculated to inflict injury, cause harm, demean, or deprive the student of basic human necessities.

(k) Data collection requirement. Beginning with the 2003-2004 school year, with the exception of actions covered by subsection (f) of this section, cumulative data regarding the use of restraint must be reported through the Public Education Information Management System (PEIMS).

G. Least restrictive environment (LRE) placement (34 CFR 300.550-300.553; 19 TAC 89.63(a-c))

G. Least Restrictive Environment (LRE) Placement (34 CFR 300.550-300.553; 19 TAC 89.63(a-c))

§300.550. General LRE requirements.

(a) Except as provided in §300.311(b) and (c), a State shall demonstrate to the satisfaction of the Secretary that the State has in effect policies and procedures to ensure that it meets the requirements of §§300.550-300.556.

(b) Each public agency shall ensure—

- (1) That to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and
- (2) That special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

§300.551. Continuum of alternative placements.

(a) Each public agency shall ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

(b) The continuum required in paragraph (a) of this section must—

- (1) Include the alternative placements listed in the definition of special education under §300.26 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and
- (2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

§89.63. Instructional Arrangements and Settings.

(a) Each local school district shall be able to provide services with special education personnel to students with disabilities in order to meet the special needs of those students in accordance with 34 Code of Federal Regulations, §§300.550-300.554.

(b) Subject to §89.1075(e) of this title (relating to General Program Requirements and Local District Procedures) for the purpose of determining the student's instructional arrangement/setting, the regular school day is defined as the period of time determined appropriate by the admission, review, and dismissal (ARD) committee.

(c) Instructional arrangements/settings shall be based on the individual needs and individualized education programs (IEPs) of eligible students receiving special education services and shall include the following.

- (1) Mainstream. This instructional arrangement/setting is for providing special education and related services to a student in the regular classroom in accordance with the student's IEP. Qualified special education personnel must be involved in the implementation of the student's IEP through the provision of direct, indirect and/or support services to the student, and/or the student's regular classroom teacher(s) necessary to enrich the regular classroom and enable student success. The student's IEP must specify the services that will be provided by qualified special education personnel to enable the student to appropriately progress in the general education curriculum and/or appropriately advance in achieving the goals set out in the student's IEP. Examples of services provided in this instructional arrangement include, but are not

limited to, direct instruction, helping teacher, team teaching, co-teaching, interpreter, education aides, curricular or instructional modifications/accommodations, special materials/equipment, consultation with the student and his/her regular classroom teacher(s) regarding the student's progress in regular education classes, staff development, and reduction of ratio of students to instructional staff.

- (2) Homebound. This instructional arrangement/setting is for providing special education and related services to students who are served at home or hospital bedside.
 - (A) Students served on a homebound or hospital bedside basis are expected to be confined for a minimum of four consecutive weeks as documented by a physician licensed to practice in the United States. Homebound or hospital bedside instruction may, as provided by local district policy, also be provided to chronically ill students who are expected to be confined for any period of time totaling at least four weeks throughout the school year as documented by a physician licensed to practice in the United States. The student's ARD committee shall determine the amount of services to be provided to the student in this instructional arrangement/setting in accordance with federal and state laws, rules, and regulations, including the provisions specified in subsection (b) of this section.
 - (B) Home instruction may also be used for services to infants and toddlers (birth through age 2) and young children (ages 3-5) when determined appropriate by the child's individualized family services plan (IFSP) committee or ARD committee. This arrangement/setting also applies to school districts described in Texas Education Code, §29.014.
- (3) Hospital class. This instructional arrangement/setting is for providing special education instruction in a classroom, in a hospital facility, or a residential care and treatment facility not operated by the school district. If the students residing in the facility are provided special education services outside the facility, they are considered to be served in the instructional arrangement in which they are placed and are not to be considered as in a hospital class.
- (4) Speech therapy. This instructional arrangement/setting is for providing speech therapy services whether in a regular education classroom or in a setting other than a regular education classroom. When the only special education or related service provided to a student is speech therapy, then this instructional arrangement may not be combined with any other instructional arrangement.
- (5) Resource room/services. This instructional arrangement/setting is for providing special education and related services to a student in a setting other than regular education for less than 50% of the regular school day.
- (6) Self-contained (mild, moderate, or severe) regular campus. This instructional arrangement/setting is for providing special education and related services to a student who is in a self-contained program for 50% or more of the regular school day on a regular school campus.
- (7) Off home campus. This instructional arrangement/setting is for providing special education and related services to the following, including students at South Texas Independent School District and Windham Independent School District:
 - (8) Nonpublic day school. This instructional arrangement/setting is for providing special education and related services to students through a contractual agreement with a nonpublic school for special education.
 - (9) Vocational adjustment class/program. This instructional arrangement/setting is for providing special education and related services to a student who is placed on a job with regularly scheduled direct involvement by special education personnel in the implementation of the student's IEP. This instructional arrangement/setting shall be used in conjunction with the student's individual transition plan and only after the school district's career and technology classes have been considered and determined inappropriate for the student.
- (10) Residential care and treatment facility (not school district resident). This instructional arrangement/setting is for providing special education instruction and related services to students who reside in care and treatment facilities and whose parents do not reside within the boundaries of the school district providing educational services to the students. In order to be considered in this arrangement, the services must be provided on a school district campus. If the instruction is provided at the facility, rather than on a school district campus, the instructional arrangement is considered to be the hospital class arrangement/setting rather than this instructional arrangement. Students with disabilities who reside in these facilities may be included in the average daily attendance of the district in the same way as all other students receiving special education.
- (11) State school for persons with mental retardation. This instructional arrangement/setting is for providing special education and related services to a student who resides at a state school when the services are provided at the state school location. If services are provided on a local school district campus, the student is considered to be served in the residential care and treatment facility arrangement/setting.

§300.552. Placements.

[See Appendix A; Q. 19, Q. 37]

In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency shall ensure that—

- (a) The placement decision—
 - (1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and
 - (2) Is made in conformity with the LRE provisions of this subpart, including §§300.550-300.554;
- (b) The child's placement—
 - (1) Is determined at least annually;
 - (2) Is based on the child's IEP; and
 - (3) Is as close as possible to the child's home;
- (c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled;
- (d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and
- (e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

§300.553. Nonacademic settings.

In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in §300.306, each public agency shall ensure that each child with a disability participates with nondisabled children in those services and activities to the maximum extent appropriate to the needs of that child.

H. Transition planning (34 CFR 300.29; TEC 29.011; 19 TAC 89.1110)

§300.29. Transition services.

- (a) As used in this part, transition services means a coordinated set of activities for a student with a disability that—
 - (1) Is designed within an outcome-oriented process, that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;
 - (2) Is based on the individual student's needs, taking into account the student's preferences and interests; and
 - (3) Includes—
 - (i) Instruction;
 - (ii) Related services;
 - (iii) Community experiences;
 - (iv) The development of employment and other post-school adult living objectives; and
 - (v) If appropriate, acquisition of daily living skills and functional vocational evaluation.
- (b) Transition services for students with disabilities may be special education, if provided as specially designed instruction, or related services, if required to assist a student with a disability to benefit from special education.

§29.011. Transition Planning.

- (a) The Texas Education Agency, the Texas Department of Mental Health and Mental Retardation, and the Texas Rehabilitation Commission shall develop, agree to, and by rule adopt a memorandum of understanding that establishes the respective responsibilities of each agency for the provision of services necessary to prepare students enrolled in special education programs for a successful transition to life outside of the public school system.
- (b) The Texas Education Agency, the Texas Department of Mental Health and Mental Retardation, and the Texas Rehabilitation Commission may request other appropriate agencies to participate in the development of the memorandum of understanding, and each agency requested shall participate and adopt the memorandum. The memorandum must be agreed to by all participating agencies.
- (c) The memorandum may require an agency or a school district to provide a service only if the agency or school district is providing that service at the time the memorandum is adopted. The memorandum shall require each participating agency to participate in the development of a transition plan required by Subsection (e) on the request of a school district.
- (d) The Texas Education Agency shall coordinate the development of the memorandum of understanding.
- (e) Each district shall develop and annually review an individual transition plan (ITP) for each student enrolled in a special education program who is at least 16 years of age. The ITP shall be developed in a separate document from the individualized education program (IEP) and may not be considered a part of the IEP. The school district shall coordinate development of the ITP with any participating agency as provided in the memorandum of understanding in order to provide continuity and coordination of services among the various agencies and between the ITP and IEP. The district

shall request the participation in the development of the ITP of any participating agency recommended by school personnel or requested by the student or the student's parent. The district shall invite the student and the student's parents or guardians to participate in the development of the ITP. Only those components of the ITP that are the responsibility of the district may be incorporated into the student's IEP. Only the failure to implement those components of a student's ITP that are included in the IEP are subject to the due process procedures of the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) or to Texas Education Agency complaint procedures. The failure of the district to develop and annually review an ITP for a student is subject only to the Texas Education Agency complaint procedures and not to the due process procedures of the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.). A monitoring visit under Section 29.010 shall include a review of the transition planning requirements under this section. A school district is not liable for the failure of another agency to implement those components of the ITP that are designated as the responsibility of that agency under the memorandum of understanding.

§89.1110. Memorandum of Understanding on Transition Planning for Students Receiving Special Education Services.

I. Certified personnel for the provision of services to children with special needs
(34 CFR 300.26; 34 CFR 300.136; 19 TAC 89.1131; SBEC requirements)

§89.1131. Qualifications of Special Education, Related Service, and Paraprofessional Personnel.

- (a) All special education and related service personnel shall be certified, endorsed, or licensed in the area or areas of assignment in accordance with 34 Code of Federal Regulations (CFR), §300.23 and §300.136; the Texas Education Code (TEC), §§21.002, 21.003, and 29.304; or appropriate state agency credentials.
- (b) A teacher who holds a special education certificate or an endorsement may be assigned to any level of a basic special education instructional program serving eligible students 3-21 years of age, as defined in §89.1035(a) of this title (relating to Age Ranges for Student Eligibility), in accordance with the limitation of their certification, except for the following.
 - (1) Persons assigned to provide speech therapy instructional services must hold a valid Texas Education Agency (TEA) certificate in speech and hearing therapy or speech and language therapy, or a valid state license as a speech/language pathologist.
 - (2) Teachers holding only a special education endorsement for early childhood education for children with disabilities shall be assigned only to programs serving infants through Grade 6.
 - (3) Teachers assigned full-time to teaching students who are orthopedically impaired or other health impaired with the teaching station in the home or a hospital shall not be required to hold a special education certificate or endorsement as long as the personnel file contains an official transcript indicating that the teacher has completed a three-semester-hour survey course in the education of students with disabilities and three semester hours directly related to teaching students with physical impairments or other health impairments.
 - (4) Teachers certified in the education of students with visual impairments must be available to students with visual impairments, including deaf-blindness, through one of the school district's instructional options, a shared services arrangement with other school districts, or an education service center (ESC). A teacher who is certified in the education of students with visual impairments must attend each admission, review, and dismissal (ARD) committee meeting or individualized family service plan (IFSP) meeting of a student with a visual impairment, including deaf-blindness.
 - (5) Teachers certified in the education of students with auditory impairments must be available to students with auditory impairments, including deaf-blindness, through one of the school district's instructional options, a regional day school program for the deaf, a shared services arrangement with other school districts, or an ESC. A teacher who is certified in the education of students with auditory impairments must attend each ARD committee meeting or IFSP meeting of a student with an auditory impairment, including deaf-blindness.
 - (6) The following provisions apply to physical education.
 - (A) When the ARD committee has made the determination and the arrangements are specified in the student's individualized education program (IEP), physical education may be provided by the following personnel:
 - (i) special education instructional or related service personnel who have the necessary skills and knowledge;
 - (ii) physical education teachers;
 - (iii) occupational therapists;
 - (iv) physical therapists; or
 - (v) occupational therapy assistants or physical therapy assistants working under supervision in accordance with the

standards of their profession.

(B) When these services are provided by special education personnel, the district must document that they have the necessary skills and knowledge. Documentation may include, but need not be limited to, inservice records, evidence of attendance at seminars or workshops, or transcripts of college courses.

(7) Teachers assigned full-time or part-time to instruction of students from birth through age two with visual impairments, including deaf-blindness, shall be certified in the education of students with visual impairments. Teachers assigned full-time or part-time to instruction of students from birth through age two who are deaf, including deaf-blindness, shall be certified in education for students who are deaf and severely hard of hearing. Other certifications for serving these students shall require prior approval from TEA.

(8) Teachers with secondary certification with the generic delivery system may be assigned to teach Grades 6-12 only.

(c) Paraprofessional personnel must be certified and may be assigned to work with eligible students, general and special education teachers, and related service personnel. Aides may also be assigned to assist students with special education transportation, serve as a job coach, or serve in support of community-based instruction. Aides paid from state administrative funds may be assigned to the Special Education Resource System (SERS), the Special Education Management System (SEMS), or other special education clerical or administrative duties.

(d) Interpreting services for students who are deaf shall be provided by an interpreter who is certified in the appropriate language mode(s), if certification in such mode(s) is available. If certification is available, the interpreter must be certified by the Registry of Interpreters for the Deaf or the Texas Commission for the Deaf and Hard of Hearing, unless the interpreter has been granted an emergency permit by the commissioner of education to provide interpreting services for students who are deaf. The commissioner shall consider applications for the issuance of an emergency permit to provide interpreting services for students who are deaf on a case-by-case basis in accordance with requirements set forth in 34 CFR, §300.136, and standards and procedures established by the TEA. In no event will an emergency permit allow an uncertified interpreter to provide interpreting services for more than a total of three school years to students who are deaf.

(e) Orientation and mobility instruction must be provided by a certified orientation and mobility specialist (COMS) who is certified by the Academy for Certification of Vision Rehabilitation and Education.

§300.26. Special education.

(a) General.

(1) As used in this part, the term special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including—

(i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(ii) Instruction in physical education.

(2) The term includes each of the following, if it meets the requirements of paragraph (a)(1) of this section:

(i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards;

(ii) Travel training; and

(iii) Vocational education.

(b) Individual terms defined. The terms in this definition are defined as follows:

(1) At no cost means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.

(2) Physical education—

(i) Means the development of—

(A) Physical and motor fitness;

(B) Fundamental motor skills and patterns; and

(C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and

(ii) Includes special physical education, adapted physical education, movement education, and motor development.

(3) Specially-designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction—

(i) To address the unique needs of the child that result from the child's disability; and

(ii) To ensure access of the child to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the public agency that apply to all children.

- (4) Travel training means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to—
- (i) Develop an awareness of the environment in which they live; and
 - (ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).

(5) Vocational education means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree.

§300.136. Personnel standards.

(a) Definitions. As used in this part—

(1) Appropriate professional requirements in the State means entry level requirements that—

- (i) Are based on the highest requirements in the State applicable to the profession or discipline in which a person is providing special education or related services; and
 - (ii) Establish suitable qualifications for personnel providing special education and related services under Part B of the Act to children with disabilities who are served by State, local, and private agencies (see §300.2);
- (2) Highest requirements in the State applicable to a specific profession or discipline means the highest entry-level academic degree needed for any State-approved or -recognized certification, licensing, registration, or other comparable requirements that apply to that profession or discipline;

(3) Profession or discipline means a specific occupational category that—

- (i) Provides special education and related services to children with disabilities under Part B of the Act;
 - (ii) Has been established or designated by the State;
 - (iii) Has a required scope of responsibility and degree of supervision; and
 - (iv) Is not limited to traditional occupational categories; and
- (4) State-approved or -recognized certification, licensing, registration, or other comparable requirements means the requirements that a State legislature either has enacted or has authorized a State agency to promulgate through rules to establish the entry-level standards for employment in a specific profession or discipline in that State.

(b) Policies and procedures.

- (1) (i) The State must have on file with the Secretary policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained.
- (ii) The policies and procedures required in paragraph (b)(1)(i) of this section must provide for the establishment and maintenance of standards that are consistent with any State-approved or ☐ recognized certification, licensing, registration, or other comparable requirements that apply to the profession or discipline in which a person is providing special education or related services.

(2) Each State may—

- (i) Determine the specific occupational categories required to provide special education and related services within the State; and
 - (ii) Revise or expand those categories as needed.
- (3) Nothing in this part requires a State to establish a specified training standard (e.g., a masters degree) for personnel who provide special education and related services under Part B of the Act.
- (4) A State with only one entry-level academic degree for employment of personnel in a specific profession or discipline may modify that standard as necessary to ensure the provision of FAPE to all children with disabilities in the State without violating the requirements of this section.

(c) Steps for retraining or hiring personnel. To the extent that a State's standards for a profession or discipline, including standards for temporary or emergency certification, are not based on the highest requirements in the State applicable to a specific profession or discipline, the State must provide the steps the State is taking and the procedures for notifying public agencies and personnel of those steps and the timelines it has established for the retraining or hiring of personnel to meet appropriate professional requirements in the State.

(d) Status of personnel standards in the State.

- (1) In meeting the requirements in paragraphs (b) and (c) of this section, a determination must be made about the status of personnel standards in the State. That determination must be based on current information that accurately describes, for each profession or discipline in which personnel are providing special education or related services, whether the applicable standards are consistent with the highest requirements in the State for that profession or discipline.
- (2) The information required in paragraph (d)(1) of this section must be on file in the SEA and available to the public.

(e) Applicability of State statutes and agency rules. In identifying the highest requirements in the State for purposes of this section, the requirements of all State statutes and the rules of all State agencies applicable to serving children with disabilities must be considered.

(f) Use of paraprofessionals and assistants. A State may allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulations, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services to children with disabilities under Part B of the Act.

(g) Policy to address shortage of personnel.

(1) In implementing this section, a State may adopt a policy that includes a requirement that LEAs in the State make an ongoing good faith effort to recruit and hire appropriately and adequately trained personnel to provide special education and related services to children with disabilities, including, in a geographic area of the State where there is a shortage of personnel that meet these qualifications, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in paragraph (b)(2) of this section, consistent with State law and the steps described in paragraph (c) of this section, within three years.

(2) If a State has reached its established date under paragraph (c) of this section, the State may still exercise the option under paragraph (g)(1) of this section for training or hiring all personnel in a specific profession or discipline to meet appropriate professional requirements in the State.

(3) (i) Each State must have a mechanism for serving children with disabilities if instructional needs exceed available personnel who meet appropriate professional requirements in the State for a specific profession or discipline.

(ii) A State that continues to experience shortages of qualified personnel must address those shortages in its comprehensive system of personnel development under §300.135.

J. Services to expelled students (34 CFR 300.121(d); 34 CFR 300.522; TEC Chapter 37 – 10 day rule)

§300.121(d). Free appropriate public education (FAPE).

(d) FAPE for children suspended or expelled from school.

(1) A public agency need not provide services during periods of removal under §300.520(a)(1) to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if services are not provided to a child without disabilities who has been similarly removed.

(2) In the case of a child with a disability who has been removed from his or her current placement for more than 10 school days in that school year, the public agency, for the remainder of the removals, must—

(i) Provide services to the extent necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP, if the removal is—

(A) Under the school personnel's authority to remove for not more than 10 consecutive school days as long as that removal does not constitute a change of placement under §300.519(b) (§300.520(a)(1)); or

(B) For behavior that is not a manifestation of the child's disability, consistent with §300.524; and

(ii) Provide services consistent with §300.522, regarding determination of the appropriate interim alternative educational setting, if the removal is—

(A) For drug or weapons offenses under §300.520(a)(2); or

(B) Based on a hearing officer determination that maintaining the current placement of the child is substantially likely to result in injury to the child or to others if he or she remains in the current placement, consistent with §300.521.

(3) (i) School personnel, in consultation with the child's special education teacher, determine the extent to which services are necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP if the child is removed under the authority of school personnel to remove for not more than 10 consecutive school days as long as that removal does not constitute a change of placement under §300.519 (§300.520(a)(1)).

(ii) The child's IEP team determines the extent to which services are necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP if the child is removed because of behavior that has been determined not to be a manifestation of the child's disability, consistent with §300.524.

§300.522. Determination of setting.

(a) General. The interim alternative educational setting referred to in §300.520(a)(2) must be determined by the IEP team.

(b) Additional requirements. Any interim alternative educational setting in which a child is placed under §§300.520(a)(2) or 300.521 must—

(1) Be selected so as to enable the child to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child's current IEP, that will enable the child to meet the goals set out in that IEP; and

(2) Include services and modifications to address the behavior described in §§300.520(a)(2) or 300.521, that are designed to prevent the behavior from recurring.

§ 37.004. Placement of Students With Disabilities

(a) The placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal committee. Any disciplinary action regarding a student with disabilities that would constitute a change in placement under federal law may only occur after a manifestation determination review has been conducted by the student's admission, review, and dismissal committee.

(b) All disciplinary actions regarding a student with a disability who receives special education services shall be determined in accordance with federal law and regulations, including the provision of functional behavioral assessments; positive behavioral interventions, strategies, and supports; behavioral intervention plans; and the manifestation determination review.

(c) A teacher in a disciplinary alternative education program who has a special education assignment must hold an appropriate certificate or permit for that assignment. A student with a disability who receives special education services may not be placed in alternative education programs solely for educational purposes.

§ 37.004. Placement of Students With Disabilities

(a) The placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal committee.

(b) Any disciplinary action regarding a student with a disability who receives special education services that would constitute a change in placement under federal law may be taken only after the student's admission, review, and dismissal committee conducts a manifestation determination review under 20 U.S.C. Section 1415(k)(4) and its subsequent amendments. Any disciplinary action regarding the student shall be determined in accordance with federal law and regulations, including laws or regulations requiring the provision of:

(1) functional behavioral assessments;

(2) positive behavioral interventions, strategies, and supports; and

(3) behavioral intervention plans.

(c) A student with a disability who receives special education services may not be placed in alternative education programs solely for educational purposes.

(d) A teacher in an alternative education program under Section 37.008 who has a special education assignment must hold an appropriate certificate or permit for that assignment.

(e) Notwithstanding any other provision of this subchapter, in a county with a juvenile justice alternative education program established under Section 37.011, the expulsion under a provision of Section 37.007 described by this subsection of a student with a disability who receives special education services must occur in accordance with this subsection and Subsection (f). The school district from which the student was expelled shall, in accordance with applicable federal law, provide the administrator of the juvenile justice alternative education program or the administrator's designee with reasonable notice of the meeting of the student's admission, review, and dismissal committee to discuss the student's expulsion. A representative of the juvenile justice alternative education program may participate in the meeting to the extent that the meeting relates to the student's placement in the program. This subsection applies only to an expulsion under:

(1) Section 37.007(b), (c), or (f); or

(2) Section 37.007(d) as a result of conduct that contains the elements of any offense listed in Section 37.007(b)(3) against any employee or volunteer in retaliation for or as a result of the person's employment or association with a school district.

(f) If, after placement of a student in a juvenile justice alternative education program under Subsection (e), the administrator of the program or the administrator's designee has concerns that the student's educational or behavioral needs cannot be met in the program, the administrator or designee shall immediately provide written notice of those concerns to the school district from which the student was expelled. The student's admission, review, and dismissal committee shall meet to reconsider the placement of the student in the program. The district shall, in accordance with applicable federal law, provide the administrator or designee with reasonable notice of the meeting, and a representative of the program may participate in the meeting to the extent that the meeting relates to the student's continued placement in the program.

K. Allowable expenditures of state special education funds (19 TAC 89.1125)

§89.1125. Allowable Expenditures of State Special Education Funds.

- (a) Persons paid from special education funds shall be assigned to instructional or other duties in the special education program and/or to provide support services to the regular education program in order for students with disabilities to be included in the regular program. Support services shall include, but not be limited to, collaborative planning, co-teaching, small group instruction with special and regular education students, direct instruction to special education students, or other support services determined necessary by the admission, review, and dismissal (ARD) committee for an appropriate program for the student with disabilities. Assignments may include duties supportive to school operations equivalent to those assigned to regular education personnel.
- (b) Personnel assigned to provide support services to the regular education program as stated in subsection (a) of this section may be fully funded from special education funds.
- (c) If personnel are assigned to special education on less than a full-time basis, except as stated in subsection (a) of this section, only that portion of time for which the personnel are assigned to students with disabilities shall be paid from state special education funds.
- (d) State special education funds may be used for special materials, supplies, and equipment which are directly related to the development and implementation of individualized education programs (IEPs) of students and which are not ordinarily purchased for the regular classroom. Office and routine classroom supplies are not allowable. Special equipment may include instructional and assistive technology devices, audiovisual equipment, computers for instruction or assessment purposes, and assessment equipment only if used directly with students.
- (e) State special education funds may be used to contract with consultants to provide staff development, program planning and evaluation, instructional services, assessments, and related services to students with disabilities.
- (f) State special education funds may be used for transportation only to and from residential placements. Prior to using federal funds for transportation costs to and from a residential facility, a district must use state or local funds based on actual expenses up to the state transportation maximum for private transportation contracts.
- (g) State special education funds may be used to pay staff travel to perform services directly related to the education of eligible students with disabilities. Funds may also be used to pay travel of staff (including administrators, general education teachers, and special education teachers and service providers) to attend staff development meetings for the purpose of improving performance in assigned positions directly related to the education of eligible students with disabilities. In no event shall the purpose for attending such staff development meetings include time spent in performing functions relating to the operation of professional organizations. In accordance with 34 Code of Federal Regulations, §300.382(j), funds may also be used to pay for the joint training of parents and special education, related services, and general education personnel.

§105.11. Maximum Allowable Indirect Cost.

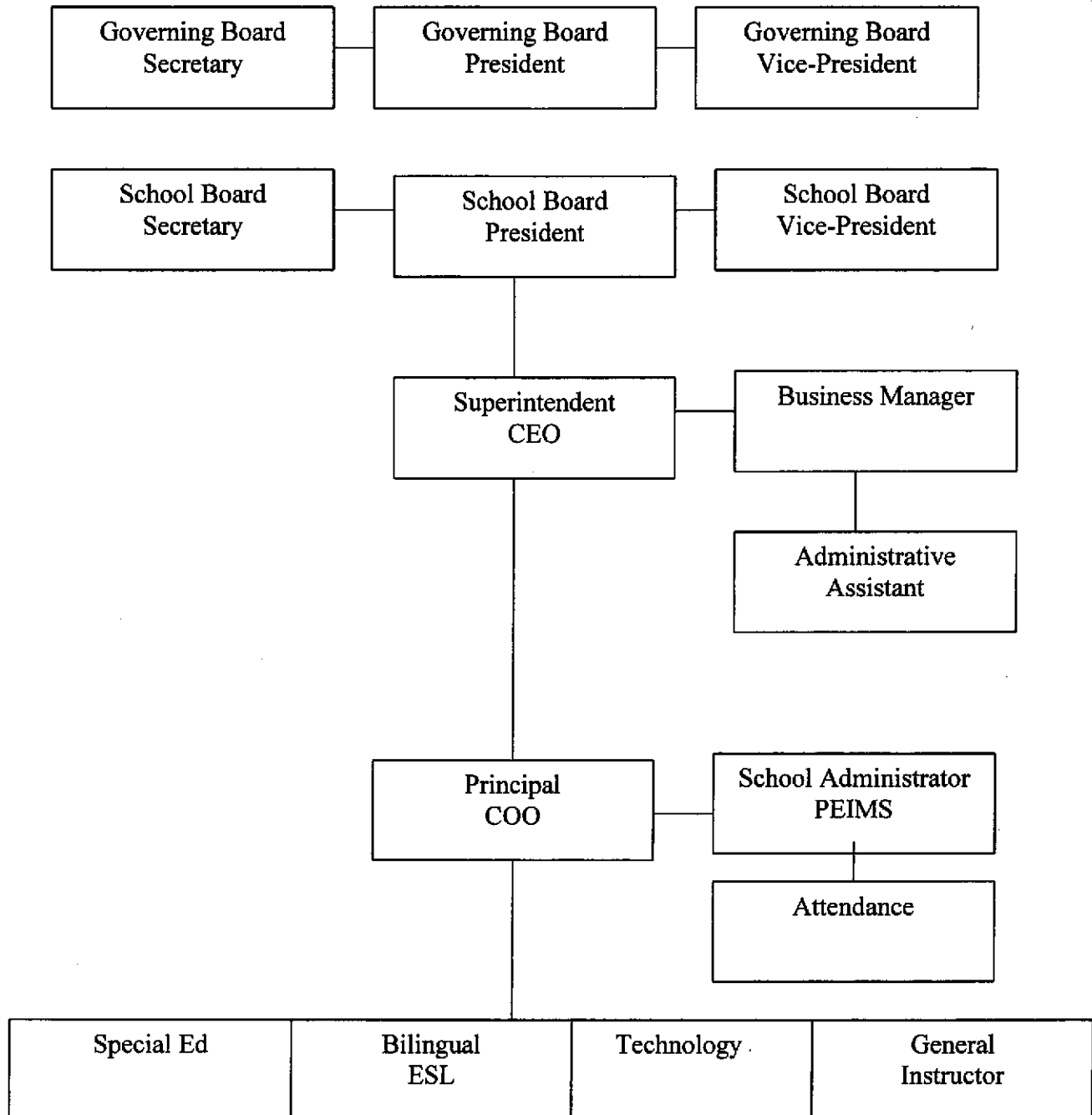
No more than 15 % of each school district's Foundation School Program special allotments under the Texas Education Code, Chapter 42, Subchapter C, may be expended for indirect costs related to the following programs: compensatory education, gifted and talented education, bilingual education and special language programs, career and technology education, and special education. Indirect costs may be attributed to the following expenditure function codes: 34 - Student Transportation; 41 - General Administration; 81 - Facilities Acquisition and Construction; and the Function 90 series of the general fund, as defined in the Texas Education Agency (TEA) bulletin, Financial Accountability System Resource Guide.

CFR=Code of Federal Regulations

TEC=Texas Education Code

TAC=Texas Administrative Code

ACADEMY OF CAREERS & TECHNOLOGIES



Criminal History Records/Background

PAGE 42 - 49 = 8 PAGES

8 PAGES HAVE BEEN WITHHELD UNDER SECTIONS 411.0845 AND
411.0901 OF THE GOVERNMENT CODE

TEXAS EDUCATION AGENCY
OPEN-ENROLLMENT CHARTER SCHOOL APPLICANT
BIOGRAPHICAL AFFIDAVIT (Attachment 3)
(MUST BE TYPED and NOTARIZED)

Check all that apply:

☒ Member of the governing board of the charter holder

☐ Member of the governing board for the charter school

It should be understood that a board member's resignation may not be effective until a replacement is duly appointed by the board, and a board member may be personally liable for any actions taken by the board.

☒ School officer Chief Executive Officer/Superintendent
State Position as defined in TEC 12.1012

Full Name of Charter Holder (i.e., nonprofit corporation, institution of higher education, or governmental entity)
Academy of Careers & Technologies, Inc.

Full Name of Charter School
Academy of Careers & Technologies High School

In connection with the above-named organization and charter school renewal application, I herewith make representations and supply information about myself as hereinafter set forth. (Attach addendum or separate sheet if space hereon is insufficient to answer any questions fully.)

IF ANSWER IS "NO" OR "NONE", SO STATE.

1. Full Name (Initials Not Acceptable) Tonja Deniecha Simpson

2. Have you ever had your name changed or used another name? yes

If yes, give reason for the change: marriage/divorce

b. Maiden Name (if female) Tonja Deniecha Simpson

c. Other names used at any time Tonja Deniecha Mahome

3. Social Security Number: [REDACTED]

4. Explain any compensation that you expect to receive from your association with the charter holder, the charter school, or a management company of the school:

POSITION	COMPENSATION
CEO/Superintendent	60,000.00

5. List all previous experience with charter schools. Include open-enrollment schools and/or campus or program charters:

DATES	EMPLOYER	ADDRESS	TITLE
none			

List all previous experience with any charter school management company:

DATES	EMPLOYER	ADDRESS	TITLE
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none

6. Will you or any relative within the third degree of consanguinity (i.e., parent, grandparent, great-grandparent, child, grandchild, great-grandchild, sibling, aunt, uncle, niece, nephew) be employed by or receive any compensation or remuneration from the charter holder or the charter school? no If yes, give details: _____
7. Will your spouse or any of your spouse's relatives within the third degree of consanguinity (i.e., his or her parent, grandparent, great-grandparent, child, grandchild, great-grandchild, sibling, aunt, uncle, niece, nephew) be employed by or receive any compensation or remuneration from the charter holder or the charter school? no If yes, give details: _____
8. Have you ever been convicted or had a sentence imposed or suspended or had pronouncement of a sentence suspended or been pardoned for conviction of or pleaded guilty or nolo contendere to any information or indictment charging a misdemeanor involving moral turpitude or any felony or have you been the subject of any disciplinary proceedings of any federal or state regulatory agency? no

If yes, give details: _____

Dated and signed this 05 day of April, 20 03, at 11:05 AM
I hereby certify under penalty of perjury that I am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief.

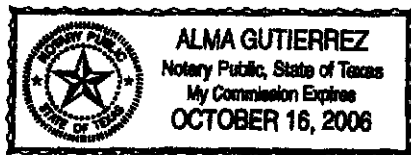
[Signature]
(Signature of Affiant)

State of Texas

County of Bexar

Personally appeared before me the above named Tonja Deniecha Simpson
personally known to me, who, being duly sworn, deposes and says that he/she executed the above instrument and that the statements and answers contained therein are true and correct to the best of his/her knowledge and belief.

Subscribed and sworn to before me this 25 day of April, 20 03



(SEAL)

Alma Gutierrez
(Notary Public)

My commission expires 10-16-2006

TEXAS EDUCATION AGENCY
OPEN-ENROLLMENT CHARTER SCHOOL APPLICANT
BIOGRAPHICAL AFFIDAVIT (Attachment 3)
(MUST BE TYPED and NOTARIZED)

Check all that apply:

- ☒ Member of the governing board of the charter holder
☐ Member of the governing board for the charter school

It should be understood that a board member's resignation may not be effective until a replacement is duly appointed by the board, and a board member may be personally liable for any actions taken by the board.

- ☐ School officer _____
State Position as defined in TEC 12.1012

Full Name of Charter Holder (i.e., nonprofit corporation, institution of higher education, or governmental entity)

ACADEMY OF CAREERS & TECHNOLOGIES INC

Full Name of Charter School

ACADEMY OF CAREERS & TECHNOLOGIES CHARTER HIGH SCHOOL

In connection with the above-named organization and charter school renewal application, I herewith make representations and supply information about myself as hereinafter set forth. (Attach addendum or separate sheet if space hereon is insufficient to answer any questions fully.)

IF ANSWER IS "NO" OR "NONE", SO STATE.

1. Full Name (Initials Not Acceptable) PALLA MARIE APPLIN

2. Have you ever had your name changed or used another name? NO

If yes, give reason for the change: _____

b. Maiden Name (if female) PALLA MARIE APPLIN

c. Other names used at any time NONE

3. Social Security Number: [REDACTED]

4. Explain any compensation that you expect to receive from your association with the charter holder, the charter school, or a management company of the school:

POSITION	COMPENSATION
Vice President	none
_____	_____
_____	_____
_____	_____

5. List all previous experience with charter schools. Include open-enrollment schools and/or campus or program charters:

DATES	EMPLOYER	ADDRESS	TITLE
n/a	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

List all previous experience with any charter school management company:

DATES	EMPLOYER	ADDRESS	TITLE
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n/a

6. Will you or any relative within the third degree of consanguinity (i.e., parent, grandparent, great-grandparent, child, grandchild, great-grandchild, sibling, aunt, uncle, niece, nephew) be employed by or receive any compensation or remuneration from the charter holder or the charter school? no If yes, give details: _____
7. Will your spouse or any of your spouse's relatives within the third degree of consanguinity (i.e., his or her parent, grandparent, great-grandparent, child, grandchild, great-grandchild, sibling, aunt, uncle, niece, nephew) be employed by or receive any compensation or remuneration from the charter holder or the charter school? no If yes, give details: _____
8. Have you ever been convicted or had a sentence imposed or suspended or had pronouncement of a sentence suspended or been pardoned for conviction of or pleaded guilty or nolo contendere to any information or indictment charging a misdemeanor involving moral turpitude or any felony or have you been the subject of any disciplinary proceedings of any federal or state regulatory agency? no

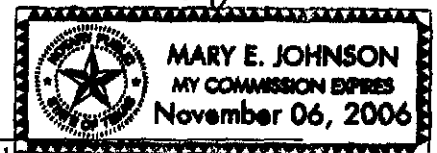
If yes, give details: _____

Dated and signed this 8th day of June, 20 03, at 11:10am
I hereby certify under penalty of perjury that I am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief.

Mrs. Paula M. Applin
(Signature of Affiant)

State of Texas

County of Bexar



Personally appeared before me the above named Paula M. Applin
personally known to me, who, being duly sworn, deposes and says that he/she executed the above instrument and that the statements and answers contained therein are true and correct to the best of his/her knowledge and belief.

Subscribed and sworn to before me this 8 day of June, 20 0.

Mary E. Johnson
(Notary Public)

(SEAL)

My commission expires Nov 6, 2006

TEXAS EDUCATION AGENCY
OPEN-ENROLLMENT CHARTER SCHOOL APPLICANT
BIOGRAPHICAL AFFIDAVIT (Attachment 3)
(MUST BE TYPED and NOTARIZED)

Check all that apply:

- ☒ Member of the governing board of the charter holder
☐ Member of the governing board for the charter school

It should be understood that a board member's resignation may not be effective until a replacement is duly appointed by the board, and a board member may be personally liable for any actions taken by the board.

- ☐ School officer _____
State Position as defined in TEC 12.1012

Full Name of Charter Holder (i.e., nonprofit corporation, institution of higher education, or governmental entity)
ACADEMY OF CAREERS & TECHNOLOGIES Inc.

Full Name of Charter School

~~ACADEMY OF CAREERS & TECHNOLOGIES CHARTER HIGH SCHOOL~~

In connection with the above-named organization and charter school renewal application, I herewith make representations and supply information about myself as hereinafter set forth. (Attach addendum or separate sheet if space hereon is insufficient to answer any questions fully.)

IF ANSWER IS "NO" OR "NONE", SO STATE.

1. Full Name (Initials Not Acceptable) LaTrese Tiwana Moore

2. Have you ever had your name changed or used another name? no

If yes, give reason for the change: _____

b. Maiden Name (if female) LaTrese Tiwana Moore

c. Other names used at any time n/a

3. Social Security Number: [REDACTED]

4. Explain any compensation that you expect to receive from your association with the charter holder, the charter school, or a management company of the school:

POSITION

COMPENSATION

Board Member

none

5. List all previous experience with charter schools. Include open-enrollment schools and/or campus or program charters:

DATES

EMPLOYER

ADDRESS

TITLE

none

List all previous experience with any charter school management company:

DATES	EMPLOYER	ADDRESS	TITLE
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none

6. Will you or any relative within the third degree of consanguinity (i.e., parent, grandparent, great-grandparent, child, grandchild, great-grandchild, sibling, aunt, uncle, niece, nephew) be employed by or receive any compensation or remuneration from the charter holder or the charter school? no If yes, give details: _____
7. Will your spouse or any of your spouse's relatives within the third degree of consanguinity (i.e., his or her parent, grandparent, great-grandparent, child, grandchild, great-grandchild, sibling, aunt, uncle, niece, nephew) be employed by or receive any compensation or remuneration from the charter holder or the charter school? No If yes, give details: _____
8. Have you ever been convicted or had a sentence imposed or suspended or had pronouncement of a sentence suspended or been pardoned for conviction of or pleaded guilty or nolo contendere to any information or indictment charging a misdemeanor involving moral turpitude or any felony or have you been the subject of any disciplinary proceedings of any federal or state regulatory agency? No

If yes, give details: _____

Dated and signed this 10th day of June, 20 03, at 2:00pm.

I hereby certify under penalty of perjury that I am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief.

LaTrese Tiwana Moore
(Signature of Affiant)

State of Texas

County of Bexar

Personally appeared before me the above named LaTrese Tiwana Moore personally known to me, who, being duly sworn, deposes and says that he/she executed the above instrument and that the statements and answers contained therein are true and correct to the best of his/her knowledge and belief.

Subscribed and sworn to before me this 10th day of June, 20 03.



Carol S. Foster
(Notary Public)

My commission expires 4-15-2006

TEXAS EDUCATION AGENCY
OPEN-ENROLLMENT CHARTER SCHOOL APPLICANT
BIOGRAPHICAL AFFIDAVIT (Attachment 3)
(MUST BE TYPED and NOTARIZED)

Check all that apply:

- ☐ Member of the governing board of the charter holder
☒ Member of the governing board for the charter school

It should be understood that a board member's resignation may not be effective until a replacement is duly appointed by the board, and a board member may be personally liable for any actions taken by the board.

☐ School officer _____
State Position as defined in TEC 12.1012

Full Name of Charter Holder (i.e., nonprofit corporation, institution of higher education, or governmental entity)
Academy of Careers & Technologies, Inc.

Full Name of Charter School
Academy of Careers & Technologies Charter High School

In connection with the above-named organization and charter school renewal application, I herewith make representations and supply information about myself as hereinafter set forth. (Attach addendum or separate sheet if space hereon is insufficient to answer any questions fully.)

IF ANSWER IS "NO" OR "NONE", SO STATE.

1. Full Name (Initials Not Acceptable) Willie Dave McNeil Jr

2. Have you ever had your name changed or used another name? no

If yes, give reason for the change: _____

b. Maiden Name (if female) _____

c. Other names used at any time none

3. Social Security Number: [REDACTED]

4. Explain any compensation that you expect to receive from your association with the charter holder, the charter school, or a management company of the school:

POSITION	COMPENSATION
<u>none</u>	

5. List all previous experience with charter schools. Include open-enrollment schools and/or campus or program charters:

DATES	EMPLOYER	ADDRESS	TITLE
<u>none</u>			

List all previous experience with any charter school management company:

DATES	EMPLOYER	ADDRESS	TITLE
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none

6. Will you or any relative within the third degree of consanguinity (i.e., parent, grandparent, great-grandparent, child, grandchild, great-grandchild, sibling, aunt, uncle, niece, nephew) be employed by or receive any compensation or remuneration from the charter holder or the charter school? no If yes, give details: _____
7. Will your spouse or any of your spouse's relatives within the third degree of consanguinity (i.e., his or her parent, grandparent, great-grandparent, child, grandchild, great-grandchild, sibling, aunt, uncle, niece, nephew) be employed by or receive any compensation or remuneration from the charter holder or the charter school? no If yes, give details: _____
8. Have you ever been convicted or had a sentence imposed or suspended or had pronouncement of a sentence suspended or been pardoned for conviction of or pleaded guilty or nolo contendere to any information or indictment charging a misdemeanor involving moral turpitude or any felony or have you been the subject of any disciplinary proceedings of any federal or state regulatory agency? no
- If yes, give details: _____

Dated and signed this 27 day of MAY, 20 03, at _____
I hereby certify under penalty of perjury that I am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief.

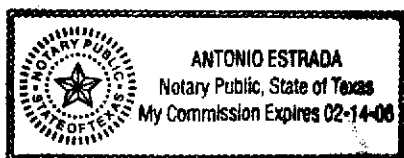
Willie D. McNeil Jr.
(Signature of Affiant)

State of TEXAS

County of BEXAR

Personally appeared before me the above named WILLIE D. MCNEIL JR
personally known to me, who, being duly sworn, deposes and says that he/she executed the above instrument and that the statements and answers contained therein are true and correct to the best of his/her knowledge and belief.

Subscribed and sworn to before me this 27 day of MAY, 20 03.



(SEAL)

Antonio Estrada
(Notary Public)

My commission expires 2.14.06

**TEXAS EDUCATION AGENCY
OPEN-ENROLLMENT CHARTER SCHOOL APPLICANT
BIOGRAPHICAL AFFIDAVIT (Attachment 3)
(MUST BE TYPED and NOTARIZED)**

Check all that apply:

- ☐ Member of the governing board of the charter holder
☒ Member of the governing board for the charter school

It should be understood that a board member's resignation may not be effective until a replacement is duly appointed by the board, and a board member may be personally liable for any actions taken by the board.

☐ School officer _____
State Position as defined in TEC 12.1012

Full Name of Charter Holder (i.e., nonprofit corporation, institution of higher education, or governmental entity)
Academy of Careers & Technologies, Inc.

Full Name of Charter School
Academy of Careers & Technologies Charter High School

In connection with the above-named organization and charter school renewal application, I herewith make representations and supply information about myself as hereinafter set forth. (Attach addendum or separate sheet if space hereon is insufficient to answer any questions fully.)

IF ANSWER IS "NO" OR "NONE", SO STATE.

1. Full Name (Initials Not Acceptable) Floyd Thomas Morgan

2. Have you ever had your name changed or used another name? no

If yes, give reason for the change: _____

b. Maiden Name (if female) _____

c. Other names used at any time no

3. Social Security Number: [REDACTED]

4. Explain any compensation that you expect to receive from your association with the charter holder, the charter school, or a management company of the school:

POSITION	COMPENSATION
none	

5. List all previous experience with charter schools. Include open-enrollment schools and/or campus or program charters:

DATES	EMPLOYER	ADDRESS	TITLE
none			

List all previous experience with any charter school management company:

DATES	EMPLOYER	ADDRESS	TITLE
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none

6. Will you or any relative within the third degree of consanguinity (i.e., parent, grandparent, great-grandparent, child, grandchild, great-grandchild, sibling, aunt, uncle, niece, nephew) be employed by or receive any compensation or remuneration from the charter holder or the charter school? no If yes, give details: _____
7. Will your spouse or any of your spouse's relatives within the third degree of consanguinity (i.e., his or her parent, grandparent, great-grandparent, child, grandchild, great-grandchild, sibling, aunt, uncle, niece, nephew) be employed by or receive any compensation or remuneration from the charter holder or the charter school? no If yes, give details: _____
8. Have you ever been convicted or had a sentence imposed or suspended or had pronouncement of a sentence suspended or been pardoned for conviction of or pleaded guilty or nolo contendere to any information or indictment charging a misdemeanor involving moral turpitude or any felony or have you been the subject of any disciplinary proceedings of any federal or state regulatory agency? no

If yes, give details: _____

Dated and signed this 28 day of april, 20 03, at 6:45 pm.

I hereby certify under penalty of perjury that I am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief.

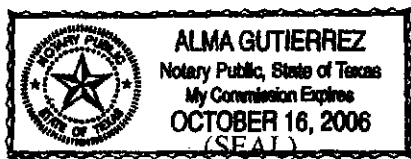
Edgar T. Moya
(Signature of Affiant)

State of Texas

County of Bexar

Personally appeared before me the above named Edgar T. Moya personally known to me, who, being duly sworn, deposes and says that he/she executed the above instrument and that the statements and answers contained therein are true and correct to the best of his/her knowledge and belief.

Subscribed and sworn to before me this 28 day of april, 20 03.



Alma Gutierrez
(Notary Public)

My commission expires 10-16-2006

TEXAS EDUCATION AGENCY
OPEN-ENROLLMENT CHARTER SCHOOL APPLICANT
BIOGRAPHICAL AFFIDAVIT (Attachment 3)
(MUST BE TYPED and NOTARIZED)

Check all that apply:

- ☐ Member of the governing board of the charter holder
☒ Member of the governing board for the charter school

It should be understood that a board member's resignation may not be effective until a replacement is duly appointed by the board, and a board member may be personally liable for any actions taken by the board.

- ☐ School officer _____

State Position as defined in TEC 12.1012

Full Name of Charter Holder (i.e., nonprofit corporation, institution of higher education, or governmental entity)
Academy of Careers & Technologies, Inc.

Full Name of Charter School

Academy of Careers & Technologies Charter High School

In connection with the above-named organization and charter school renewal application, I herewith make representations and supply information about myself as hereinafter set forth. (Attach addendum or separate sheet if space hereon is insufficient to answer any questions fully.)

IF ANSWER IS "NO" OR "NONE", SO STATE.

1. Full Name (Initials Not Acceptable) Jesse Martinez

2. Have you ever had your name changed or used another name? no

If yes, give reason for the change: _____

b. Maiden Name (if female) _____

c. Other names used at any time no

3. Social Security Number: [REDACTED]

4. Explain any compensation that you expect to receive from your association with the charter holder, the charter school, or a management company of the school:

POSITION
none

COMPENSATION

5. List all previous experience with charter schools. Include open-enrollment schools and/or campus or program charters:

DATES	EMPLOYER	ADDRESS	TITLE
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<u>none</u>			

List all previous experience with any charter school management company:

DATES	EMPLOYER	ADDRESS	TITLE
-------	----------	---------	-------

none

6. Will you or any relative within the third degree of consanguinity (i.e., parent, grandparent, great-grandparent, child, grandchild, great-grandchild, sibling, aunt, uncle, niece, nephew) be employed by or receive any compensation or remuneration from the charter holder or the charter school? no If yes, give details: _____

7. Will your spouse or any of your spouse's relatives within the third degree of consanguinity (i.e., his or her parent, grandparent, great-grandparent, child, grandchild, great-grandchild, sibling, aunt, uncle, niece, nephew) be employed by or receive any compensation or remuneration from the charter holder or the charter school? no If yes, give details: _____

8. Have you ever been convicted or had a sentence imposed or suspended or had pronouncement of a sentence suspended or been pardoned for conviction of or pleaded guilty or nolo contendere to any information or indictment charging a misdemeanor involving moral turpitude or any felony or have you been the subject of any disciplinary proceedings of any federal or state regulatory agency? no

If yes, give details: _____

Dated and signed this 28 day of April, 20 03, at 6:45 pm.

I hereby certify under penalty of perjury that I am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief.

State of

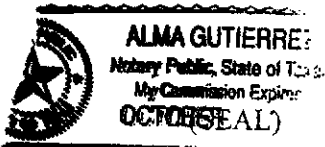
Bexar Texas

County of

Bexar

Personally appeared before me the above named Jesse Martin personally known to me, who, being duly sworn, deposes and says that he/she executed the above instrument and that the statements and answers contained therein are true and correct to the best of his/her knowledge and belief.

Subscribed and sworn to before me this 28 day of April, 20 03.



Alma Gutierrez
(Notary Public)

My commission expires 10-16-2006

TEXAS EDUCATION AGENCY
OPEN-ENROLLMENT CHARTER SCHOOL APPLICANT
BIOGRAPHICAL AFFIDAVIT (Attachment 3)
(MUST BE TYPED and NOTARIZED)

Check all that apply:

- ☐ Member of the governing board of the charter holder
☐ Member of the governing board for the charter school

It should be understood that a board member's resignation may not be effective until a replacement is duly appointed by the board, and a board member may be personally liable for any actions taken by the board.

☒ School officer Chief Operation Officer

State Position as defined in TEC 12.1012

Full Name of Charter Holder (i.e., nonprofit corporation, institution of higher education, or governmental entity)
Academy of Careers & Technologies, Inc.

Full Name of Charter School

Academy of Careers & Technologies High School

In connection with the above-named organization and charter school renewal application, I herewith make representations and supply information about myself as hereinafter set forth. (Attach addendum or separate sheet if space hereon is insufficient to answer any questions fully.)

IF ANSWER IS "NO" OR "NONE", SO STATE.

1. Full Name (Initials Not Acceptable) Parela Bradley-White

2. Have you ever had your name changed or used another name? yes

If yes, give reason for the change: marriage

b. Maiden Name (if female) Parela Rose Bradley

c. Other names used at any time none

3. Social Security Number: [REDACTED]

4. Explain any compensation that you expect to receive from your association with the charter holder, the charter school, or a management company of the school:

POSITION

COMPENSATION

COO

37,500.00

5. List all previous experience with charter schools. Include open-enrollment schools and/or campus or program charters:

DATES	EMPLOYER	ADDRESS	TITLE
8/00-9/01	Higgs, Carter, King	PO Box 18854 San Antonio, TX 78218	Teacher
8/99-8.00	School of Excellence	802 Oblate San Antonio, TX 78216	Teacher

List all previous experience with any charter school management company:

DATES	EMPLOYER	ADDRESS	TITLE
-------	----------	---------	-------

none

6. Will you or any relative within the third degree of consanguinity (i.e., parent, grandparent, great-grandparent, child, grandchild, great-grandchild, sibling, aunt, uncle, niece, nephew) be employed by or receive any compensation or remuneration from the charter holder or the charter school? no If yes, give details: _____
7. Will your spouse or any of your spouse's relatives within the third degree of consanguinity (i.e., his or her parent, grandparent, great-grandparent, child, grandchild, great-grandchild, sibling, aunt, uncle, niece, nephew) be employed by or receive any compensation or remuneration from the charter holder or the charter school? no If yes, give details: _____
8. Have you ever been convicted or had a sentence imposed or suspended or had pronouncement of a sentence suspended or been pardoned for conviction of or pleaded guilty or nolo contendere to any information or indictment charging a misdemeanor involving moral turpitude or any felony or have you been the subject of any disciplinary proceedings of any federal or state regulatory agency? no

If yes, give details: _____

Dated and signed this 14 day of May, 2003, at 2:30pm.

I hereby certify under penalty of perjury that I am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief.

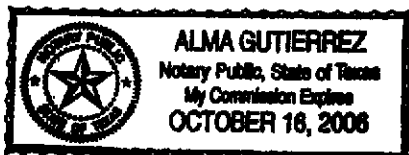
Pamela Bradley-White
(Signature of Affiant)

State of Texas

County of Bexar

Personally appeared before me the above named Pamela Bradley-White personally known to me, who, being duly sworn, deposes and says that he/she executed the above instrument and that the statements and answers contained therein are true and correct to the best of his/her knowledge and belief.

Subscribed and sworn to before me this 14 day of May, 2003.



(SEAL)

Alma Gutierrez
(Notary Public)

My commission expires 10-16-06

TEXAS EDUCATION AGENCY
OPEN-ENROLLMENT CHARTER SCHOOL APPLICANT
BIOGRAPHICAL AFFIDAVIT (Attachment 3)
(MUST BE TYPED and NOTARIZED)

Check all that apply:

- ☐ Member of the governing board of the charter holder
☐ Member of the governing board for the charter school

It should be understood that a board member's resignation may not be effective until a replacement is duly appointed by the board, and a board member may be personally liable for any actions taken by the board.

- ☒ School officer Business Manager
State Position as defined in TEC 12.1012

Full Name of Charter Holder (i.e., nonprofit corporation, institution of higher education, or governmental entity)
Academy of Careers & Technologies Inc.

Full Name of Charter School
Academy of Careers & Technologies Charter High School

In connection with the above-named organization and charter school renewal application, I herewith make representations and supply information about myself as hereinafter set forth. (Attach addendum or separate sheet if space hereon is insufficient to answer any questions fully.)

IF ANSWER IS "NO" OR "NONE", SO STATE.

1. Full Name (Initials Not Acceptable) Brenda Sue Hill

2. Have you ever had your name changed or used another name? yes

If yes, give reason for the change: marriage

b. Maiden Name (if female) Brenda Sue Menette

c. Other names used at any time _____

3. Social Security Number: [REDACTED]

4. Explain any compensation that you expect to receive from your association with the charter holder, the charter school, or a management company of the school:

POSITION	COMPENSATION
<u>Business Manager</u>	<u>28,000.00</u>
_____	_____
_____	_____

5. List all previous experience with charter schools. Include open-enrollment schools and/or campus or program charters:

DATES	EMPLOYER	ADDRESS	TITLE
<u>none</u>	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

List all previous experience with any charter school management company:

DATES	EMPLOYER	ADDRESS	TITLE
none			

6. Will you or any relative within the third degree of consanguinity (i.e., parent, grandparent, great-grandparent, child, grandchild, great-grandchild, sibling, aunt, uncle, niece, nephew) be employed by or receive any compensation or remuneration from the charter holder or the charter school? no If yes, give details: _____
7. Will your spouse or any of your spouse's relatives within the third degree of consanguinity (i.e., his or her parent, grandparent, great-grandparent, child, grandchild, great-grandchild, sibling, aunt, uncle, niece, nephew) be employed by or receive any compensation or remuneration from the charter holder or the charter school? no If yes, give details: _____
8. Have you ever been convicted or had a sentence imposed or suspended or had pronouncement of a sentence suspended or been pardoned for conviction of or pleaded guilty or nolo contendere to any information or indictment charging a misdemeanor involving moral turpitude or any felony or have you been the subject of any disciplinary proceedings of any federal or state regulatory agency? no
- If yes, give details: _____

Dated and signed this 16 day of May, 2003, at 1:40pm
I hereby certify under penalty of perjury that I am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief.

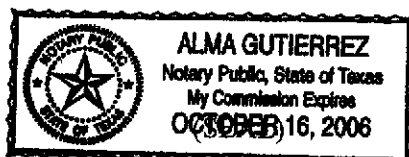
Brenda Hill
(Signature of Affiant)

State of Texas

County of Bexar

Personally appeared before me the above named Brenda Hill
personally known to me, who, being duly sworn, deposes and says that he/she executed the above instrument and that the statements and answers contained therein are true and correct to the best of his/her knowledge and belief.

Subscribed and sworn to before me this 16 day of May, 2003



Alma Gutierrez
(Notary Public)
My commission expires 10-16-06

Attachment 4

Documentation for Evaluation of Other Information Relevant to Performance

During the course of any given school year student performance data is regularly collected and studied for emerging trends in achievement and growth. Data sources include: state and district end-of-grade accountability reports for grades nine, ten and eleven in reading, math, and writing; cumulative reports from the district office regarding achievement; school-based quarterly assessments of reading, math, and writing; project-based assessments in social studies and science; and teacher observation of proficiency in the arts.

Additionally, cohort-specific or classroom-specific data (such as that generated by the computer software program Odyssey is frequently utilized as on-going assessment tools in reading and math, providing valuable information to gauge growth.

Teachers conduct on-going formal assessment of student growth in phonemic awareness, reading comprehension, writing, and math. Additionally, an end-of-the year math assessment is conducted. Using a variety of different reports consistently allows us to monitor student achievement as a whole school, by grade level cohort, by student subgroups, and for the individual student.

2001-2002 was the first year Academy of Careers & Technologies was rated, we do not have data to compare the year-to-year progress.

**ACADEMY OF CAREERS &
TECHNOLOGIES CHARTER HIGH
SCHOOL.**

MISSION STATEMENT

The mission of the Academy of Careers & Technologies is to educate students to learn creatively while igniting a life-long interest in technology. ACT will provide an adaptive and effective learning environment that will prepare the student to succeed in the school, home and workplace.

VISION STATEMENT

The Academy of Careers and Technologies vision is to become a premier training hub for technology based education. ACT will provide a top quality technologically based education to each student so they will graduate with above average academic and technological skills to compete and excel in today's rapidly changing technology world.

**A
C
T**



**Academy of Careers and
Technologies 807 s.
Roosevelt San Antonio,
Texas 78210
Phone (210) 226-7568
Fax (210) 226-8543**

www.actchs.org

ATTACHMENT 5

**ACADEMY OF
CAREERS &
TECHNOLOGIES
CHARTER HIGH
SCHOOL**





Our students are learning in school and in life that it's best to accomplish short terms goals within a teamwork environment.

Classes here at ACT are managed with the student's own goals in mind. We are fully accredited by the Texas Education Agency and offer the same basic course as any other high school here in San Antonio.

Computers are fully integrated into the classroom with all courses completed through a computer network.

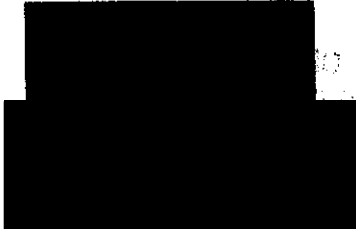


As a Charter High School student must attend their academic classes on a full day schedule.

At Academy of Careers & Technologies we offer a sound student council program for 9th - 12th grades students must meet an academic and behavior committee to be considered and elected for school elections



Every effort must be made to motivate students not interested in learning. The teaching staff must try to understand each student's unique situation and personality.



Our students have a great lunchroom facility



Our students have an excellent Physical fitness program

At ACT students learn more than regular academics they learn business and careers

And technologies programs which will enable them to excel in their different education levels in life.

Attachment 5

Special Needs/Programs Information Request

D. Academy of Careers & Technologies provides a full spectrum of instructional/settings. Service for mainstream students is provided through coordination between special education and the classroom instructor. The special education teacher also provides assistance to students in the classroom. Copies of accommodations and IEPs are provided for each student. Resource/content mastery is located in the same building as the mainstream classrooms. Students can either come to content mastery for assistance or be sent there-by-their instructor once direct instruction is complete. Resource/content mastery is equipped with computers with access to the Internet. One certified special education teacher provides special education support. Self-contained services, if required, are available through the San Antonio Charter Schools Special Education Co-op and are located at another campus. Related Services and Speech are both requested and provided through the San Antonio Charter Schools Special Education Co-op. Services are provided on the Academy of Careers & Technologies' campus.

E. New students that have previously been placed in an instructional arrangement other than mainstream are placed very carefully. Academy of Careers & Technologies' personnel in co-ordination with the Special Education Co-op staff review information provided by the previous school and due to our smaller classes, more one-on-one attention and access to content mastery students can often be placed in a less restrictive environment.

Academy of Careers & Technologies

Students are enrolled on a first come first served basis. Classes will be closed when the available space in the class rooms has been exhausted. Students registering after that will be placed on a waiting list. When an opening occurs the student at the top of the list will be contacted by the school and invited to enroll.

Registrar

ATTACHMENT 5
C.

Academy of Careers & Technologies

Charter High School

807 S. Roosevelt San Antonio, TX 78210

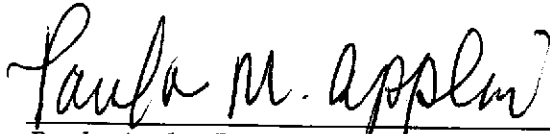
(210)-226-7568 Fax (210) 226-8548

Your son/daughter has been on a waiting list at our school. We are informing you that we now have a spot available for you child. We will reserve his spot for 3 days. If we do not here from you within this time we will assume they are no longer interesting and will give his spot to the next student in line.

Registrar

MEETING OF THE
BOARD OF DIRECTORS
OF
ACADEMY OF CAREERS & TECHNOLOGIES INC.

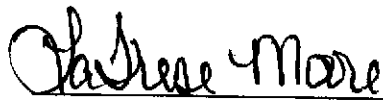
A meeting of the Board of Directors of **ACADEMY OF CAREERS &
TECHNOLOGIES INC.**, was held on
May 21, 2003, whereby a resolution was passed authorizing
**The Commissioner of Education to renew
Academy of Careers & Technologies Charter School charter as set forth in the renewal
Application.**



Paula Applin, Board Member



Dr. Tonja D. Simpson, Board Member



LaTrese Moore, Board Member

Academy of Careers & Technologies Charter High School
REGISTRATION FORM (Lottery Draw and/or Enrollment)

SCHOOL YEAR 20__ - 20__

Student ID# _____

LAST NAME _____ FIRST NAME _____ MIDDLE NAME _____

SCHOOL: _____ GRADE: _____ SSN# _____

SEX: _____ RACE: _____ BIRTHDATE: ____/____/____ Age as of September 1, 20XX _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

PHONE: _____ BIRTHPLACE: _____

FIRST PARENT/GUARDIAN: _____ RELATION: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

HOME PHONE: _____ WORK PHONE: _____

PLACE OF EMPLOYMENT: _____

SECOND PARENT/GUARDIAN: _____ RELATION: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

HOME PHONE: _____ WORK PHONE: _____

PLACE OF EMPLOYMENT: _____

EMERGENCY CONTACT NAME: _____ PHONE: _____

DOCTOR PREFERENCE: _____ PHONE: _____

HOSPITAL PREFERENCE: _____ PHONE: _____

PREVIOUS SCHOOL(S) ATTENDED: _____

Is your child transferring from another school district?: (Yes or No) If Yes, from what district? _____

Bus Transportation Information: Will your child be using bus transportation to get to school? (Yes or No) _____

TO THE PARENT: The information asked above is needed as a permanent school record of your child and will be used by school personnel. This is to certify the above information is correct. I, the undersigned, do hereby authorize officials of this school to contact directly the person named on this form, and do authorize the above named physician to render such treatment as may be deemed necessary in an emergency, for the health of said child. In the event physician, other persons named on this form, or parents cannot be contacted, the school officials are hereby authorized to take whatever action is necessary in their judgment, for the health of the aforesaid child. I will not hold the school district financially responsible for the emergency care and/or transportation for said child.

Parent or Guardian Signature

Date

Academy of Careers & Technologies Charter High School

807 Roosevelt
San Antonio, TX
210/226-7568

LOTTERY REGISTRATION FORM

School Year 20__ – 20__

Dear Parents,

Academy of Careers & Technologies Charter High School is currently filled to capacity. As openings become available Federal/State Law requires that the charter school select new students through a lottery system. If you choose to have your student placed in the lottery, please complete the form below and return it to the school.

Last Name First Name Middle Name

School Grade Birth Date / /

SSN Age on September 1, 20XX

Home Address

City State Zip

Home Phone Birthplace

First Parent/Guardian Relation

Address

City State Zip

Home Phone Work Phone

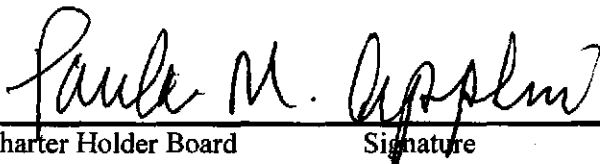
Place of Employment

Part 4. Electronic Copy Certification and Written Resolution (Attachment 6)

Section XIII. Electronic Copy of Application

Please submit an electronic copy of the renewal application in addition to the five hard copies requested. The electronic copy should be on a 3.5 inch diskette and should be mailed along with the hard copies. The electronic copy must be identical to the hard copies. The signatures below are required to certify that the electronic and hard copies are identical.

By signing below, I hereby certify that the enclosed electronic and hard copies are identical.

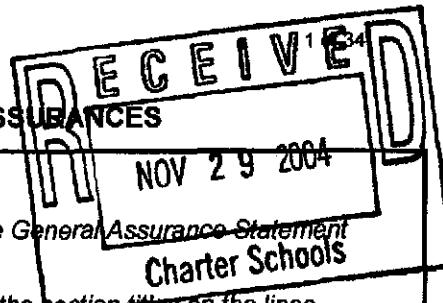
Paula M. Applin		6/11/2003
Printed Name of Chairperson of Charter Holder Board	Signature	Date

Tonja D. Simpson		6/11/2003
Printed Name of Chief Executive Officer of the Charter School	Signature	Date

Section XIV. Written Resolution

Applications must be accompanied by a written resolution adopted by the governing body of the charter holder and signed by the members voting in favor. The resolution must authorize the commissioner to renew the open-enrollment charter as set forth in the renewal application, as finally negotiated between the charter holder and the commissioner, including any conditions. (Attachment 7, Written Resolution)

CHARTER HOLDER SPECIAL EDUCATION ASSURANCES



DIRECTIONS:

- Type or print the name of the charter holder and the charter school in the General Assurance Statement below.
- The Chairperson of the Board of the Charter Holder must initial each of the section titles on the lines below AND check ☒ each of the selected cites in the boxes below to indicate the charter holder's assurance of compliance with each of the specific cites.
- The Chairperson of the Board of the Charter Holder must sign the document in the space provided on the final page of the assurances.
- Mail the original signed document to the Charter Schools Division, Texas Education Agency, 1701 N. Congress, Austin, TX 78701.

NOTE:

The rules and regulations have been slightly modified to clarify the charter holder's responsibility. Changes to actual regulations are indicated by brackets. Empty brackets indicate deletions. Brackets around words indicate paraphrased or changed wording.

General Assurance Statement

ACT, INC., charter holder for ACADEMY OF CAREERS & TECH. Charter School, assures that it has policies and procedures in place that ensure implementation of all federal regulations, Texas laws, State Board of Education (SBOE) rules, and commissioner rules related to students with disabilities, including those initiated and checked below, and further assures that any future amendments to the regulations, laws, and rules will be incorporated and implemented.

A. Child Find

Initial: 

☒ 34 CFR §300.125. Child Find.

(a) General requirement.

(1) The [charter holder] shall have in effect policies and procedures to ensure that—

- (i) All children with disabilities, [enrolled in the charter school or who contact the charter school regarding enrollment], regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated; and
- (ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services.

(2) The requirements of paragraph (a)(1) of this section apply to—

- (i) Highly mobile children with disabilities (such as migrant and homeless children); and
- (ii) Children who are suspected of being a child with a disability under [CFR 34] §300.7 and in need of special education, even though they are advancing from grade to grade.

[(c) The charter holder will notify the local ECI program of all children suspected of having a disability, from birth through the age of two, within 2 working days. The charter holder will maintain documentation of the referral and that the individual evaluation occurred within 45 calendar days.]

- (e) Confidentiality of child find data. The collection and use of data to meet the requirements of this section are subject to the confidentiality requirements of §§300.560-300.577.

B. Confidentiality

Initial: 

☒ TEC §26.004. Access to Student Records.

[The charter holder recognizes] that a parent is entitled to access to all written records of a school district [or charter holder] concerning the parent's child, including:

- (1) attendance records;
- (2) test scores;
- (3) grades;
- (4) disciplinary records;
- (5) counseling records;
- (6) psychological records;
- (7) applications for admission;
- (8) health and immunization information;
- (9) teacher and counselor evaluations; and
- (10) reports of behavioral patterns.

☒ 19 TAC §89.1050(f)(3) [Transfer of Records].

- (f) (3) In accordance with TEC §25.002, the school district [or charter school] in which the student was previously enrolled will furnish the new school district [or charter school] with a copy of the student's records, including the child's special education records, not later than the 30th calendar day after the student was enrolled in the new school []. The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., §1232g, does not require the student's current and previous school districts [or charter schools] to obtain parental consent before requesting or sending the student's special education records if the disclosure is conducted in accordance with 34 CFR, §99.31(a)(2) and §99.34.

☒ 34 CFR §300.127. Confidentiality of personally identifiable information.

- (a) The [charter holder] must have on file in detail the policies and procedures [] to ensure protection of the confidentiality of any personally identifiable information, collected, used, or maintained under Part B of the [IDEA].

☒ 34 CFR §300.560. Definitions.

As used in §§300.560-300.577—

- (a) Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.
- (b) Education records means the type of records covered under the definition of "education records" in 34 CFR part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974).
- (c) Participating agency means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of the [IDEA].

☒ 34 CFR §300.561. Notice to parents.

- (a) The [charter holder] shall give notice that is adequate to fully inform parents about the requirements of §300.127, including—
- (1) A description of the extent that the notice is given in the native languages of the various population groups in the State;

- (2) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the [charter holder] intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;
 - (3) A summary of the policies and procedures that the [charter holder] must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and
 - (4) A description of all of the rights of parents and children regarding this information, including the rights under the Family Educational Rights and Privacy Act of 1974 and implementing regulations in 34 CFR part 99.
- (b) Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents of the activity.

☒ **34 CFR §300.562. Access rights.**

- (a) [The charter holder] shall permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the [charter holder] under this part. The [charter holder] shall comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to §§300.507 and 300.521-300.528, and in no case more than 45 days after the request has been made.
- (b) The right to inspect and review education records under this section includes—
 - (1) The right to a response from the [charter holder] to reasonable requests for explanations and interpretations of the records;
 - (2) The right to request that the [charter holder] provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and
 - (3) The right to have a representative of the parent inspect and review the records.
- (c) [The charter holder] may presume that the parent has authority to inspect and review records relating to his or her child unless the [charter holder] has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

☒ **34 CFR §300.563. Record of access.**

[The charter holder] shall keep a record of parties obtaining access to education records collected, maintained, or used under Part B of the [IDEA] (except access by parents and authorized employees of the [charter holder]), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

☒ **34 CFR §300.564. Records on more than one child.**

If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

☒ **34 CFR §300.565. List of types and locations of information.**

[The charter holder] shall provide parents on request a list of the types and locations of education records collected, maintained, or used by the [charter holder].

☒ **34 CFR §300.566. Fees.**

- (a) [The charter holder] may charge a fee for copies of records that are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.
- (b) [The charter holder] may not charge a fee to search for or to retrieve information under this part.

☒ **34 CFR §300.567. Amendment of records at parent's request.**

- (a) A parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request the [charter holder] that maintains the information to amend the information.
- (b) The [charter holder] shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.
- (c) If the [charter holder] decides to refuse to amend the information in accordance with the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing under §300.568.

☒ **34 CFR §300.568. Opportunity for a hearing.**

The [charter holder] shall, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

☒ **34 CFR §300.569. Result of hearing.**

- (a) If, as a result of the hearing, the [charter holder] decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall amend the information accordingly and so inform the parent in writing.
- (b) If, as a result of the hearing, the [charter holder] decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall inform the parent of the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the [charter holder].
- (c) Any explanation placed in the records of the child under this section must—
 - (1) Be maintained by the [charter holder] as part of the records of the child as long as the record or contested portion is maintained by the [charter holder]; and
 - (2) If the records of the child or the contested portion is disclosed by the [charter holder] to any party, the explanation must also be disclosed to the party.

☒ **34 CFR §300.570. Hearing procedures.**

A hearing held under §300.568 must be conducted according to the procedures under 34 CFR 99.22

☒ **34 CFR §300.571. Consent.**

- (a) Except as to disclosures addressed in §300.529(b) for which parental consent is not required by Part 99, parental consent must be obtained before personally identifiable information is—
 - (1) Disclosed to anyone other than officials of participating agencies collecting or using the information under this part, subject to paragraph (b) of this section; or
 - (2) Used for any purpose other than meeting a requirement of this part.
- (b) An educational agency or institution subject to 34 CFR Part 99 may not release information from education records to participating agencies without parental consent unless authorized to do so under part 99.

☒ **34 CFR §300.572. Safeguards.**

- (a) [The charter holder] shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.
- (b) One official at [the charter school] shall assume responsibility for ensuring the confidentiality of any personally identifiable information.
- (c) All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under §300.127 and 34 CFR part 99.
- (d) [The charter holder] shall maintain, for public inspection, a current listing of the names and positions of those employees within the [charter school] who may have access to personally identifiable information.

☒ **34 CFR §300.573. Destruction of information.**

- (a) The [charter holder] shall inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child.
- (b) The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

☒ **34 CFR §300.574. Children's rights.**

- (a) The [charter holder] shall provide policies and procedures regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the child and type or severity of disability.
- (b) Under the regulations for the Family Educational Rights and Privacy Act of 1974 (34 CFR 99.5(a)), the rights of parents regarding education records are transferred to the student at age 18.

- (c) If the rights accorded to parents under Part B of the [IDEA] are transferred to a student who reaches the age of majority, consistent with §300.517, the rights regarding educational records in §§300.562-300.573 must also be transferred to the student. However, the [charter holder] must provide any notice required under section 615 of the [IDEA] to the student and the parents.

☒ **34 CFR Part 99**

[The charter holder assures that it will abide by the Family Education Rights and Privacy Act (FERPA).]

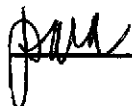
C. Procedural Safeguards

Initial: *puu*

☒ **34 CFR §300.504. Procedural safeguards notice.**

- (a) General. A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents, at a minimum—
- (1) Upon initial referral for evaluation;
 - (2) Upon each notification of an IEP meeting;
 - (3) Upon reevaluation of the child; and
 - (4) Upon receipt of a request for due process under §300.507.
- (b) Contents. The procedural safeguards notice will include a full explanation of all of the procedural safeguards available under §§300.403, 300.500-300.529, and 300.560-300.577, and the State complaint procedures available under §§300.660-300.662 relating to—
- (1) Independent educational evaluation;
 - (2) Prior written notice;
 - (3) Parental consent;
 - (4) Access to educational records;
 - (5) Opportunity to present complaints to initiate due process hearings;
 - (6) The child's placement during pendency of due process proceedings;
 - (7) Procedures for students who are subject to placement in an interim alternative educational setting;
 - (8) Requirements for unilateral placement by parents of children in private schools at public expense;
 - (9) Mediation;
 - (10) Due process hearings, including requirements for disclosure of evaluation results and recommendations;
 - (11) State-level appeals (if applicable in that State);
 - (12) Civil actions;
 - (13) Attorneys' fees; and
 - (14) The State complaint procedures under §§300.660-300.662, including a description of how to file a complaint and the timelines under those procedures.
- (c) Notice in understandable language. The notice required under paragraph (a) of this section must meet the requirements of §300.503(c).

☒ [The charter holder will use the most current edition of the Notice of Procedural Safeguards, issued by the Texas Education Agency, to meet the requirement under 34 CFR §300.504(b) and (c).]

D. NoticeInitial: **☒ 19 TAC §89.1015. Time Line for All Notices.**

"Reasonable time" required for the written notice to parents under 34 Code of Federal Regulations (CFR), §300.503, is defined as at least five school days, unless the parents agree otherwise.

☒ 34 CFR §300.503. Prior notice by the [charter holder]; content of notice.**(a) Notice.**

- (1) Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the [charter holder] —
 - (i) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
 - (ii) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.
- (2) If the notice described under paragraph (a)(1) of this section relates to an action proposed by the [charter holder] that also requires parental consent under §300.505, the [charter holder] may give notice at the same time it requests parent consent.

(b) Content of notice. The notice required under paragraph (a) of this section must include—

- (1) A description of the action proposed or refused by the [charter holder];
- (2) An explanation of why the [charter holder] proposes or refuses to take the action;
- (3) A description of any other options that the [charter holder] considered and the reasons why those options were rejected;
- (4) A description of each evaluation procedure, test, record, or report the [charter holder] used as a basis for the proposed or refused action;
- (5) A description of any other factors that are relevant to the [charter holder's] proposal or refusal;
- (6) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and
- (7) Sources for parents to contact to obtain assistance in understanding the provisions of this part.

(c) Notice in understandable language.

- (1) The notice required under paragraph (a) of this section must be—
 - (i) Written in language understandable to the general public; and
 - (ii) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.
- (2) If the native language or other mode of communication of the parent is not a written language, the [charter holder] shall take steps to ensure—
 - (i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
 - (ii) That the parent understands the content of the notice; and
 - (iii) That there is written evidence that the requirements in paragraphs (c)(2) (i) and (ii) of this section have been met.

☒ 34 CFR §300.345. Parent participation.

- (a) [Charter holder] responsibility—general. The [charter holder] shall take steps to ensure that one of both of the parents of a child with a disability are present at each IEP meeting or are afforded the opportunity to participate, including—
 - (1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and

- (2) Scheduling the meeting at a mutually agreed on time and place.
- (b) Information provided to parents.
 - (1) The notice required under paragraph (a)(1) of this section must—
 - (i) Indicate the purpose, time, and location of the meeting and who will be in attendance; and
 - (ii) Inform the parents of the provisions in §300.344(a)(6) and (c) (relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the child).
 - (2) For a student with a disability beginning at age 14, or younger, if appropriate, the notice must also—
 - (i) Indicate that a purpose of the meeting will be the development of a statement of the transition services needs of the student required in §300.347(b)(1); and
 - (ii) Indicate that the [charter holder] will invite the student.
 - (3) For a student with a disability beginning at age 16, or younger, if appropriate, the notice must—
 - (i) Indicate that a purpose of the meeting is the consideration of needed transition services for the student required in §300.347(b)(2);
 - (ii) Indicate that the [charter holder] will invite the student; and
 - (iii) Identify any other agency that will be invited to send a representative.

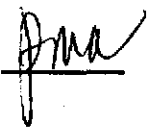
☒ **TEC §26.0081. Right to Information Concerning Special Education.**

- (a) The agency [(TEA)] shall produce and provide to school districts [and charter holders] sufficient copies of a comprehensive, easily understood document [*The Guide to the ARD Process*] that explains the process by which an individualized education program is developed for a student in a special education program and the rights and responsibilities of a parent concerning the process. The document must include information a parent needs to effectively participate in an admission, review, and dismissal committee meeting for the parent's child.
- (b) [The charter holder will provide] the document required under this section to the parent as provided by 20 U.S.C. §1415(b):
 - (1) as soon as practicable after a child is referred to determine the child's eligibility for admission into the [charter school's] special education program, but at least five school days before the date of the initial meeting of the admission, review, and dismissal committee; and
 - (2) at any other time on reasonable request of the child's parent.
- (c) The agency [(TEA)] shall produce and provide to school districts [and charter holders] a written explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education. The explanation must state that a parent is entitled at any time to request an evaluation of the parent's child for special education services under §29.004. Each school year, [beginning with the 2004-2005 school year, the charter holder] shall provide the written explanation to a parent of each [charter school] student by including the explanation in the student handbook or by another means.

☒ **19 TAC §89.1045. Notice to Parents for Admission, Review, and Dismissal (ARD) Committee Meetings.**

- (a) [The charter holder] shall invite the parents and adult student to participate as members of the admission, review, and dismissal (ARD) committee by providing written notice in accordance with 34 Code of Federal Regulations (CFR), §§300.345, 300.503, and 300.505, and Part 300, Appendix A.

E. Consent

Initial: 

☒ **34 CFR §300.500. General responsibility of public agencies; definitions.**

- (a) [] [Each charter holder] establishes, maintains, and implements procedural safeguards that meet the requirements of §§300.500-300.529.
- (b) Definitions of "consent," [] As used in this part —
 - (1) Consent means that --

- (i) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;
- (ii) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and
- (iii) (A) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime.
(B) If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

☒ **34 CFR §300.505. Parental consent.**

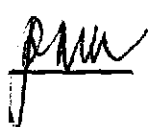
(a) General.

- (1) Subject to paragraphs (a)(3), (b) and (c) of this section, informed parent consent must be obtained before—
 - (i) Conducting an initial evaluation or reevaluation; and
 - (ii) Initial provision of special education and related services to a child with a disability.
- (2) Consent for initial evaluation may not be construed as consent for initial placement described in paragraph (a)(1)(ii) of this section.
- (3) Parental consent is not required before—
 - (i) Reviewing existing data as part of an evaluation or a reevaluation; or
 - (ii) Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children.
- (b) Refusal. If the parents of a child with a disability refuse consent for initial evaluation or a reevaluation, the [charter holder] may continue to pursue those evaluations by using the due process procedures under §§300.507-300.509, or the mediation procedures under §300.506 if appropriate, except to the extent inconsistent with State law relating to parental consent.
- (c) Failure to respond to request for reevaluation.
 - (1) Informed parental consent need not be obtained for reevaluation if the [charter holder] can demonstrate that it has taken reasonable measures to obtain that consent, and the child's parent has failed to respond.
 - (2) To meet the reasonable measures requirement in paragraph (c)(1) of this section, the [charter holder] must use procedures consistent with those in §300.345(d).
- (d) Additional State consent requirements. In addition to the parental consent requirements described in paragraph (a) of this section, a State may require parental consent for other services and activities under this part if it ensures that each public agency in the State establishes and implements effective procedures to ensure that a parent's refusal to consent does not result in a failure to provide the child with FAPE.
- (e) Limitation. [The charter holder] may not use a parent's refusal to consent to one service or activity under paragraphs (a) and (d) of this section to deny the parent or child any other service, benefit, or activity of the [charter holder], except as required by this part.

☒ **TEC §29.0041. Information and Consent for Certain Psychological Examinations or Tests.**

- (a) On request of a child's parent, before obtaining the parent's consent under 20 U.S.C. §1414 for the administration of any psychological examination or test to the child that is included as part of the evaluation of the child's need for special education, [the charter holder] shall provide to the child's parent:
 - (1) the name and type of the examination or test; and
 - (2) an explanation of how the examination or test will be used to develop an appropriate individualized education program for the child.
- (b) If the [charter holder] determines that an additional examination or test is required for the evaluation of a child's need for special education after obtaining consent from the child's parent under Subsection (a), the [charter holder] shall provide the information described by Subsections (a)(1) and (2) to the child's parent regarding the additional examination or test and shall obtain additional consent for the examination or test.
- (c) The time required for the [charter holder] to provide information and seek consent under Subsection (b) may not be counted toward the 60 calendar days for completion of an evaluation under Section 29.004. If a parent does not give consent under Subsection (b) within 20 calendar days after the date the [charter holder] provided to the parent the information required by that subsection, the parent's consent is considered denied.

F. Evaluation

Initial: 

☒ 19 TAC §89.1011. Referral for Full and Individual Initial Evaluation.

Referral of students for a full and individual initial evaluation for possible special education services shall be a part of the [charter holder's] overall, general education referral or screening system. Prior to referral, students experiencing difficulty in the general classroom should be considered for all support services available to all students, such as tutorial, remedial, compensatory, and other services. If the student continues to experience difficulty in the general classroom after the provision of interventions, [charter holder] personnel must refer the student for a full and individual initial evaluation. This referral for a full and individual initial evaluation may be initiated by school personnel, the student's parents or legal guardian, or another person involved in the education or care of the student.

☒ TEC §29.004. Full Individual and Initial Evaluation.

(a) A written report of a full individual and initial evaluation of a student for purposes of special education services shall be completed not later than the 60th calendar day following the date on which the [charter holder], in accordance with 20 U.S.C. §1414(a), as amended, receives written consent for the evaluation, signed by the student's parent or legal guardian.

(b) The evaluation shall be conducted using procedures that are appropriate for the student's most proficient method of communication.

☒ TEC §29.0041. Information and Consent for Certain Psychological Examinations or Tests.

(a) On request of a child's parent, before obtaining the parent's consent under 20 U.S.C. §1414 for the administration of any psychological examination or test to the child that is included as part of the evaluation of the child's need for special education, [the charter holder] shall provide to the child's parent:

- (1) the name and type of the examination or test; and
- (2) an explanation of how the examination or test will be used to develop an appropriate individualized education program for the child.

(b) If the [charter holder] determines that an additional examination or test is required for the evaluation of a child's need for special education after obtaining consent from the child's parent under Subsection (a), the [charter holder] shall provide the information described by Subsections (a)(1) and (2) to the child's parent regarding the additional examination or test and shall obtain additional consent for the examination or test.

(c) The time required for the [charter holder] to provide information and seek consent under Subsection (b) may not be counted toward the 60 calendar days for completion of an evaluation under §29.004. If a parent does not give consent under Subsection (b) within 20 calendar days after the date the [charter holder] provided to the parent the information required by that subsection, the parent's consent is considered denied.

☒ 34 CFR §300.531. Initial evaluation.

[The charter holder] shall conduct a full and individual initial evaluation, in accordance with §§300.532 and 300.533, before the initial provision of special education and related services to a child with a disability under Part B of the [IDEA].

☒ 34 CFR §300.532. Evaluation procedures.

[The charter holder] shall ensure, at a minimum, that the following requirements are met:

(a) (1) Tests and other evaluation materials used to assess a child under Part B of the [IDEA]—

- (i) Are selected and administered so as not to be discriminatory on a racial or cultural basis; and
- (ii) Are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so; and

(2) Materials and procedures used to assess a child with limited English proficiency are selected and administered to ensure that they measure the extent to which the child has a disability and needs special education, rather than measuring the child's English language skills.

(b) A variety of assessment tools and strategies are used to gather relevant functional and developmental information about the child, including information provided by the parent, and information related to enabling the child to be

involved in and progress in the general curriculum (or for a preschool child, to participate in appropriate activities), that may assist in determining—

- (1) Whether the child is a child with a disability under §300.7; and
 - (2) The content of the child's IEP.
- (c) (1) Any standardized tests that are given to a child—
- (i) Have been validated for the specific purpose for which they are used; and
 - (ii) Are administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests.
- (2) If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test, or the method of test administration) must be included in the evaluation report.
- (d) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
 - (e) Tests are selected and administered so as best to ensure that if a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).
 - (f) No single procedure is used as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child.
 - (g) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.
 - (h) In evaluating each child with a disability under §§300.531–300.536, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.
 - (i) The [charter holder] uses technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
 - (j) The [charter holder] uses assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child.

34 CFR §300.533. Determination of needed evaluation data.

- (a) Review of existing evaluation data. As part of an initial evaluation (if appropriate) and as part of any reevaluation under Part B of the [IDEA], a group that includes the individuals described in §300.344, and other qualified professionals, as appropriate, shall—
 - (1) Review existing evaluation data on the child, including-
 - (i) Evaluations and information provided by the parents of the child;
 - (ii) Current classroom-based assessments and observations; and
 - (iii) Observations by teachers and related services providers; and
 - (2) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine—
 - (i) Whether the child has a particular category of disability, as described in §300.7, or, in case of a reevaluation of a child, whether the child continues to have such a disability;
 - (ii) The present levels of performance and educational needs of the child;
 - (iii) Whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and
 - (iv) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general curriculum.
- (b) Conduct of review. The group described in paragraph (a) of this section may conduct its review without a meeting.
- (c) Need for additional data. The [charter holder] shall administer tests and other evaluation materials as may be needed to produce the data identified under paragraph (a) of this section.
- (d) Requirements if additional data are not needed.

- (1) If the determination under paragraph (a) of this section is that no additional data are needed to determine whether the child continues to be a child with a disability, the [charter holder] shall notify the child's parents—
 - (i) Of that determination and the reasons for it; and
 - (ii) Of the right of the parents to request an assessment to determine whether, for purposes of services under this part, the child continues to be a child with a disability.
- (2) The [charter holder] is not required to conduct the assessment described in paragraph (d)(1)(ii) of this section unless requested to do so by the child's parents.

19 TAC §89.1040. Eligibility Criteria.

- (a) Special education services. To be eligible to receive special education services, a student must be a "child with a disability," as defined in 34 Code of Federal Regulations (CFR), §300.7(a), subject to the provisions of 34 CFR, §300.7(c), the Texas Education Code (TEC), §29.003, and this section. The provisions in this section specify criteria to be used in determining whether a student's condition meets one or more of the definitions in federal regulations or in state law.
- (b) Eligibility determination. The determination of whether a student is eligible for special education and related services is made by the student's admission, review, and dismissal (ARD) committee. Any evaluation or re-evaluation of a student shall be conducted in accordance with 34 CFR, §§300.530-300.536. The multidisciplinary team that collects or reviews evaluation data in connection with the determination of a student's eligibility must include, but is not limited to, the following:
 - (1) a licensed specialist in school psychology (LSSP), an educational diagnostician, or other appropriately certified or licensed practitioner with experience and training in the area of the disability; or
 - (2) a licensed or certified professional for a specific eligibility category defined in subsection (c) of this section.

34 CFR §300.534. Determination of eligibility.

- (a) Upon completing the administration of tests and other evaluation materials—
 - (1) A group of qualified professionals and the parent of the child must determine whether the child is a child with a disability, as defined in §300.7; and
 - (2) The [charter holder] must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.
- (b) A child may not be determined to be eligible under this part if—
 - (1) The determinant factor for that eligibility determination is—
 - (i) Lack of instruction in reading or math; or
 - (ii) Limited English proficiency; and
 - (2) The child does not otherwise meet the eligibility criteria under §300.7(a).
- (c) (1) [The charter holder] must evaluate a child with a disability in accordance with §§300.532 and 300.533 before determining that the child is no longer a child with a disability.
- (2) The evaluation described in paragraph (c)(1) of this section is not required before the termination of a student's eligibility under Part B of the [IDEA] due to graduation with a regular high school diploma, or exceeding the age eligibility for FAPE under State law.

34 CFR §300.535. Procedures for determining eligibility and placement.

- (a) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under §300.7, and the educational needs of the child, [the charter holder] shall—
 - (1) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and
 - (2) Ensure that information obtained from all of these sources is documented and carefully considered.
- (b) If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with §§300.340-300.350.

34 CFR §300.536. Reevaluation.

[The charter holder] shall ensure—

- (a) That the IEP of each child with a disability is reviewed in accordance with §§300.340-300.350; and

- (b) That a reevaluation of each child, in accordance with §§300.532-300.535, is conducted if conditions warrant a reevaluation, or if the child's parent or teacher requests a reevaluation, but at least once every three years.

34 CFR §300.540. Additional team members.

The determination of whether a child suspected of having a specific learning disability is a child with a disability as defined in §300.7, must be made by the child's parents and a team of qualified professionals which must include—

- (a) (1) The child's regular teacher; or
- (2) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or
- (3) For a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and
- (b) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.

34 CFR §300.541. Criteria for determining the existence of a specific learning disability.

- (a) A team may determine that a child has a specific learning disability if—
 - (1) The child does not achieve commensurate with his or her age and ability levels in one or more of the areas listed in paragraph (a)(2) of this section, if provided with learning experiences appropriate for the child's age and ability levels; and
 - (2) The team finds that a child has a severe discrepancy between achievement and intellectual ability in one or more of the following areas:
 - (i) Oral expression.
 - (ii) Listening comprehension.
 - (iii) Written expression.
 - (iv) Basic reading skill.
 - (v) Reading comprehension.
 - (vi) Mathematics calculation.
 - (vii) Mathematics reasoning.
- (b) The team may not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of—
 - (1) A visual, hearing, or motor impairment;
 - (2) Mental retardation;
 - (3) Emotional disturbance; or
 - (4) Environmental, cultural or economic disadvantage.

34 CFR §300.542. Observation.

- (a) At least one team member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting.
- (b) In the case of a child of less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.

34 CFR §300.543. Written report.

- (a) For a child suspected of having a specific learning disability, the documentation of the team's determination of eligibility, as required by §300.534(a)(2), must include a statement of—
 - (1) Whether the child has a specific learning disability;
 - (2) The basis for making the determination;
 - (3) The relevant behavior noted during the observation of the child;
 - (4) The relationship of that behavior to the child's academic functioning;
 - (5) The educationally relevant medical findings, if any;

- (6) Whether there is a severe discrepancy between achievement and ability that is not correctable without special education and related services; and
- (7) The determination of the team concerning the effects of environmental, cultural, or economic disadvantage.
- (b) Each team member shall certify in writing whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the team member must submit a separate statement presenting his or her conclusions.

G. Development and Implementation of the Individualized Education Program (IEP):

Transfer Students; Transition; Extended School Year (ESY) Services;

Restraint, Seclusion, and Time-Out

Parent Placements in Private Schools

Initial: 

☒ **19 TAC §89.1050(a). [ARD committee]**

- (a) [The charter holder] shall establish an admission, review, and dismissal (ARD) committee for each eligible student with a disability and for each student for whom a full and individual initial evaluation is conducted pursuant to §89.1011 of this title (relating to Referral for Full and Individual Initial Evaluation). The ARD committee shall be the individualized education program (IEP) team defined in federal law and regulations, including, specifically, 34 Code of Federal Regulations (CFR), §300.344. The [charter holder] shall be responsible for all of the functions for which the IEP team is responsible under federal law and regulations and for which the ARD committee is responsible under state law, including, specifically, the following:
 - (1) 34 CFR, §§300.340-300.349, and Texas Education Code (TEC), §29.005 (Individualized Education Program);
 - (2) 34 CFR, §§300.400-300.402 (relating to placement of eligible students in private schools by a school district [or charter holder]);
 - (3) 34 CFR, §§300.452, 300.455, and 300.456 (relating to the development and implementation of service plans for eligible students in private school who have been designated to receive special education and related services);
 - (4) 34 CFR, §§300.520, 300.522, and 300.523, and TEC, §37.004 (Placement of Students with Disabilities);
 - (5) 34 CFR, §§300.532-300.536 (relating to evaluations, re-evaluations, and determination of eligibility);
 - (6) 34 CFR, §§300.550-300.553 (relating to least restrictive environment);
 - (7) TEC, §28.006 (Reading Diagnosis);
 - (8) TEC, §28.0211 (Satisfactory Performance on Assessment Instruments Required; Accelerated Instruction);
 - (9) TEC, §28.0212 (Personal Graduation Plan);
 - (10) TEC, §28.0213 (Intensive Program of Instruction);
 - (11) TEC, Chapter 29, Subchapter I (Programs for Students Who Are Deaf or Hard of Hearing);
 - (12) TEC, §30.002 (Education of Children with Visual Impairments);
 - (13) TEC, §30.003 (Support of Students Enrolled in the Texas School for the Blind and Visually Impaired or Texas School for the Deaf);
 - (14) TEC, §33.081 (Extracurricular Activities);
 - (15) TEC, Chapter 39, Subchapter B (Assessment of Academic Skills); and
 - (16) TEC, §42.151 (Special Education).

☒ **19 TAC §89.1050(d). [30-day timeline]**

- (d) ARD committee shall make its decisions regarding students referred for a full and individual initial evaluation within 30 calendar days from the date of the completion of the written full and individual initial evaluation report. If the 30th day falls during the summer and school is not in session, the ARD committee shall have until the first day of classes in the fall to finalize decisions concerning the initial eligibility determination, the IEP, and placement, unless the full and

individual initial evaluation indicates that the student will need extended school year (ESY) services during that summer.

☒ **19 TAC §89.1045(b). Notice to Parents for Admission, Review, and Dismissal (ARD) Committee Meetings.**

- (b) A parent may request an ARD committee meeting at any mutually agreeable time to address specific concerns about his or her child's special education services. The [charter holder] must respond to the parent's request either by holding the requested meeting or by requesting assistance through the Texas Education Agency's mediation process. The [charter holder] should inform parents of the functions of the ARD committee and the circumstances or types of problems for which requesting an ARD committee meeting would be appropriate.

☒ **34 CFR §300.342. When IEPs must be in effect.**

- (a) General. At the beginning of each school year, [the charter holder] shall have an IEP in effect for each child with a disability within its jurisdiction.
- (b) Implementation of IEPs. [The charter holder] shall ensure that—
- (1) An IEP—
 - (i) Is in effect before special education and related services are provided to an eligible child under this part; and
 - (ii) Is implemented as soon as possible following the meetings described under §300.343;
 - (2) The child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation; and
 - (3) Each teacher and provider described in paragraph (b)(2) of this section is informed of—
 - (i) His or her specific responsibilities related to implementing the child's IEP; and
 - (ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

☒ **19 TAC §89.1050(b). [IFSP/IEP]**

- (b) For a child from birth through two years of age with visual and/or auditory impairments, an individualized family services plan (IFSP) meeting must be held in place of an ARD committee meeting in accordance with 34 CFR, §§303.340-303.346, and the memorandum of understanding between the Texas Education Agency (TEA) and Texas Interagency Council on Early Childhood Intervention. For students three years of age and older, the [charter holder] must develop an IEP.

☒ **19 TAC §89.1050(f). For a student who is new to a [charter school]:**

- (f) (1) when a student transfers within the state, the ARD committee may, but is not required to, meet when the student enrolls and a copy of the student's IEP is available, the parent(s) indicate in writing that they are satisfied with the current IEP, and the [charter holder] determines that the current IEP is appropriate and can be implemented as written; or
- (2) if the conditions of subsection (f)(1) of this section are not met, then the ARD committee must meet when the student enrolls and the parents verify that the student was receiving special education services in the previous school district or [charter school], or the previous school verifies in writing or by telephone that the student was receiving special education services. At this meeting, the ARD committee must do one of the following:
- (A) the ARD committee may determine that it has appropriate evaluation data and other information to develop and begin implementation of a complete IEP for the student; or
 - (B) the ARD committee may determine that valid evaluation data and other information from the previous school district [or charter school] are insufficient or unavailable to develop a complete IEP. In this event, the ARD committee may authorize the provision of temporary special education services pending receipt of valid evaluation data from the previous school district [or charter school] or the collection of new evaluation data by the current [charter holder]. In this situation, a second ARD committee meeting must be held within 30 school days from the date of the first ARD committee meeting to finalize or develop an IEP based on current information.
- (3) In accordance with TEC, §25.002, the school district [or charter school] in which the student was previously enrolled shall furnish the new school district [or charter holder] with a copy of the student's records, including the child's special education records, not later than the 30th calendar day after the student was enrolled in the new school district [or charter school]. The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., §1232g, does not require the student's current and previous school districts [or charter holders] to obtain parental consent before requesting or sending the student's special education records if the disclosure is conducted in accordance with 34 CFR, §99.31(a)(2) and §99.34.

☒ **34 CFR §300.121. Free appropriate public education (FAPE).**

- (a) General. [] [The charter holder] has in effect a policy that ensures that all children with disabilities aged 3 through 21 enrolled in the [charter school] have the right to FAPE, including children with disabilities who have been suspended or expelled from school.
- (b) Required information. The information described in paragraph (a) of this section must--
 - (2) Show that the policy--
 - (i) (B) Is consistent with the requirements of §§300.300-300.313; and
 - (ii) Applies to all children with disabilities, including children who have been suspended or expelled from school.
- (c) FAPE for children beginning at age 3.
 - (1) [The charter holder] shall ensure that--
 - (i) The obligation to make FAPE available to each eligible child [enrolled in the charter school] begins no later than the child's third birthday; and
 - (ii) An IEP [] is in effect for the child by that date, in accordance with §300.342(c).
 - (2) If a child's third birthday occurs during the summer, the child's IEP [] team shall determine the date when services under the IEP will begin.
- (d) FAPE for children suspended or expelled from school.
 - (1) The [charter holder] need not provide services during periods of removal under §300.520(a)(1) to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if services are not provided to a child without disabilities who has been similarly removed.
 - (2) In the case of a child with a disability who has been removed from his or her current placement for more than 10 school days in that school year, the [charter holder], for the remainder of the removals, must--
 - (i) Provide services to the extent necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP, if the removal is--
 - (A) Under the school personnel's authority to remove for not more than 10 consecutive school days as long as that removal does not constitute a change of placement under §300.519(b) (§300.520(a)(1)); or
 - (B) For behavior that is not a manifestation of the child's disability, consistent with §300.524; and
 - (ii) Provide services consistent with §300.522, regarding determination of the appropriate interim alternative educational setting, if the removal is--
 - (A) For drug or weapons offenses under §300.520(a)(2); or
 - (B) Based on a hearing officer determination that maintaining the current placement of the child is substantially likely to result in injury to the child or to others if he or she remains in the current placement, consistent with §300.521.
 - (3) (i) School personnel, in consultation with the child's special education teacher, determine the extent to which services are necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP if the child is removed under the authority of school personnel to remove for not more than 10 consecutive school days as long as that removal does not constitute a change of placement under §300.519 (§300.520(a)(1)).
 - (ii) The child's IEP team determines the extent to which services are necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP if the child is removed because of behavior that has been determined not to be a manifestation of the child's disability, consistent with §300.524.
- (e) Children advancing from grade to grade.
 - (1) The [charter holder] will ensure that FAPE is available to any individual child with a disability [enrolled in the school] who needs special education and related services, even though the child is advancing from grade to grade.
 - (2) The determination that a child [] is eligible under this part, must be made on an individual basis by the group responsible within the child's [charter school] for making those determinations [(e.g., the ARD committee)]

☒ **34 CFR §300.343. IEP meetings.**

- (a) General. [The charter holder] is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability

(b) Initial IEPs; provision of services.

- (1) [The charter holder] shall ensure that within a reasonable period of time following the [charter holder's] receipt of parent consent to an initial evaluation of a child—
 - (i) The child is evaluated; and
 - (ii) If determined eligible under this part, special education and related services are made available to the child in accordance with an IEP.
- (2) In meeting the requirement in paragraph (b)(1) of this section, a meeting to develop an IEP for the child must be conducted within 30-days of a determination that the child needs special education and related services.

(c) Review and revision of IEPs. [The charter holder] shall ensure that the IEP team—

- (1) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and
- (2) Revises the IEP as appropriate to address—
 - (i) Any lack of expected progress toward the annual goals described in §300.347(a), and in the general curriculum, if appropriate;
 - (ii) The results of any reevaluation conducted under §300.536;
 - (iii) Information about the child provided to, or by, the parents, as described in §300.533(a)(1);
 - (iv) The child's anticipated needs; or
 - (v) Other matters.

34 CFR §300.344. IEP team.

(a) General. The [charter holder] shall ensure that the IEP team for each child with a disability includes—

- (1) The parents of the child;
- (2) At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
- (3) At least one special education teacher of the child, or if appropriate, at least one special education provider of the child;
- (4) A representative of the [charter holder] who—
 - (i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
 - (ii) Is knowledgeable about the general curriculum; and
 - (iii) Is knowledgeable about the availability of resources of the [charter holder];
- (5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (6) of this section;
- (6) At the discretion of the parent or the [charter holder], other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- (7) If appropriate, the child.

(b) Transition services participants.

- (1) Under paragraph (a)(7) of this section, the [charter holder] shall invite a student with a disability of any age to attend his or her IEP meeting if a purpose of the meeting will be the consideration of—
 - (i) The student's transition services needs under §300.347(b)(1);
 - (ii) The needed transition services for the student under §300.347(b)(2); or
 - (iii) Both.
- (2) If the student does not attend the IEP meeting, the [charter holder] shall take other steps to ensure that the student's preferences and interests are considered.
- (3) (i) In implementing the requirements of §300.347(b)(2), the [charter holder] also shall invite a representative of any other agency that is likely to be responsible for providing or paying for transition services.
- (ii) If an agency invited to send a representative to a meeting does not do so, the [charter holder] shall take other steps to obtain participation of the other agency in the planning of any transition services.

- (c) Determination of knowledge and special expertise. The determination of the knowledge or special expertise of any individual described in paragraph (a)(6) of this section shall be made by the party (parents or [charter holder]) who invited the individual to be a member of the IEP.
- (d) Designating a public agency representative. [The charter holder] may designate another [charter holder member] of the IEP team to also serve as the agency representative, if the criteria in paragraph (a)(4) of this section are satisfied.

19 TAC §89.1050(c). [Teacher member requirements]

- (c) At least one general education teacher of the student (if the student is, or may be, participating in the general education environment) shall participate as a member of the ARD committee. The special education teacher or special education provider that participates in the ARD committee meeting in accordance with 34 CFR, §300.344(a)(3), must be certified in the child's suspected areas of disability. When a specific certification is not required to serve certain disability categories, then the special education teacher or special education provider must be qualified to provide the educational services that the child may need. [The charter holder] should refer to §89.1131 of this title (relating to Qualifications of Special Education, Related Service, and Paraprofessional Personnel) to ensure that appropriate teachers and/or service providers are present and participate at each ARD committee meeting.

34 CFR §300.345. Parent participation.

- (a) [Charter holder] responsibility—general. The [charter holder] shall take steps to ensure that one or both of the parents of a child with a disability are present at each IEP meeting or are afforded the opportunity to participate, including—
 - (1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
 - (2) Scheduling the meeting at a mutually agreed on time and place.
- (c) Other methods to ensure parent participation. If neither parent can attend, the [charter holder] shall use other methods to ensure parent participation, including individual or conference telephone calls.
- (d) Conducting an IEP meeting without a parent in attendance. A meeting may be conducted without a parent in attendance if the [charter holder] is unable to convince the parents that they should attend. In this case the [charter holder] must have a record of its attempts to arrange a mutually agreed on time and place, such as—
 - (1) Detailed records of telephone calls made or attempted and the results of those calls;
 - (2) Copies of correspondence sent to the parents and any responses received; and
 - (3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.
- (e) Use of interpreters or other action, as appropriate. The [charter holder] shall take whatever action is necessary to ensure that the parent understands the proceedings at the IEP meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.
- (f) Parent copy of child's IEP. The [charter holder] shall give the parent a copy of the child's IEP at no cost to the parent.

34 CFR §300.346. Development, review, and revision of IEP.

- (a) Development of IEP.
 - (1) General. In developing each child's IEP, the IEP team, shall consider—
 - (i) The strengths of the child and the concerns of the parents for enhancing the education of their child;
 - (ii) The results of the initial or most recent evaluation of the child; and
 - (iii) As appropriate, the results of the child's performance on any general State or district-wide assessment programs.
 - (2) Consideration of special factors. The IEP team also shall—
 - (i) In the case of a child whose behavior impedes his or her learning or that of others, consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior;
 - (ii) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;
 - (iii) In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;
 - (iv) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers

and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and

- (v) Consider whether the child requires assistive technology devices and services.
- (b) Review and Revision of IEP. In conducting a meeting to review, and, if appropriate, revise a child's IEP, the IEP team shall consider the factors described in paragraph (a) of this section.
- (c) Statement in IEP. If, in considering the special factors described in paragraphs (a)(1) and (2) of this section, the IEP team determines that a child needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the child to receive FAPE, the IEP team must include a statement to that effect in the child's IEP.
- (d) Requirement with respect to regular education teacher. The regular education teacher of a child with a disability, as a member of the IEP team, must, to the extent appropriate, participate in the development, review, and revision of the child's IEP, including assisting in the determination of—
 - (1) Appropriate positive behavioral interventions and strategies for the child; and
 - (2) Supplementary aids and services, program modifications or supports for school personnel that will be provided for the child, consistent with §300.347(a)(3).

34 CFR §300.347. Content of IEP.

- (a) General. The IEP for each child with a disability must include—
 - (1) A statement of the child's present levels of educational performance, including—
 - (i) How the child's disability affects the child's involvement and progress in the general curriculum (i.e., the same curriculum as for nondisabled children); or
 - (ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;
 - (2) A statement of measurable annual goals, including benchmarks or short-term objectives, related to—
 - (i) Meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum (i.e., the same curriculum as for nondisabled children), or for preschool children, as appropriate, to participate in appropriate activities; and
 - (ii) Meeting each of the child's other educational needs that result from the child's disability;
 - (3) A statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child—
 - (i) To advance appropriately toward attaining the annual goals;
 - (ii) To be involved and progress in the general curriculum in accordance with paragraph (a)(1) of this section and to participate in extracurricular and other nonacademic activities; and
 - (iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;
 - (4) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a)(3) of this section;
 - (5) (i) A statement of any individual modifications in the administration of State or district-wide assessments of student achievement that are needed in order for the child to participate in the assessment; and
 - (ii) If the IEP team determines that the child will not participate in a particular State or district-wide assessment of student achievement (or part of an assessment), a statement of—
 - (A) Why that assessment is not appropriate for the child; and
 - (B) How the child will be assessed;
 - (6) The projected date for the beginning of the services and modifications described in paragraph (a)(3) of this section, and the anticipated frequency, location, and duration of those services and modifications; and
 - (7) A statement of—
 - (i) How the child's progress toward the annual goals described in paragraph (a)(2) of this section will be measured; and
 - (ii) How the child's parents will be regularly informed (through such means as periodic report cards), at least as often as parents are informed of their nondisabled children's progress, of—

(A) Their child's progress toward the annual goals; and

(B) The extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year.

(b) Transition services. The IEP must include—

- (1) For each student with a disability beginning at age 14 (or younger, if determined appropriate by the IEP team), and updated annually, a statement of the transition service needs of the student under the applicable components of the student's IEP that focuses on the student's courses of study (such as participation in advanced-placement courses or a vocational education program); and
- (2) For each student beginning at age 16 (or younger, if determined appropriate by the IEP team), a statement of needed transition services for the student, including, if appropriate, a statement of the interagency responsibilities or any needed linkages.

(c) Transfer of rights. In a State that transfers rights at the age majority, beginning at least one year before a student reaches the age of majority under State law, the student's IEP must include a statement that the student has been informed of his or her rights under Part B of the [IDEA], if any, that will transfer to the student on reaching the age of majority, consistent with §300.517.

19 TAC §89.1055. Content of the Individualized Education Program (IEP).

- (a) The individualized education program (IEP) developed by the admission, review, and dismissal (ARD) committee for each student with a disability shall comply with the requirements of 34 Code of Federal Regulations (CFR), §300.346 and §300.347, and Part 300, Appendix A.
- (b) The IEP must include a statement of any individual allowable accommodations in the administration of assessment instruments developed in accordance with Texas Education Code (TEC), §39.023(a)-(c), or district-wide assessments of student achievement that are needed in order for the student to participate in the assessment. If the ARD committee determines that the student will not participate in a particular state- or district-wide assessment of student achievement (or part of an assessment), the IEP must include a statement of:
 - (1) why that assessment is not appropriate for the child; and
 - (2) how the child will be assessed using a locally developed alternate assessment.
- (c) If the ARD committee determines that the student is in need of extended school year (ESY) services, as described in §89.1065 of this title (relating to Extended School Year Services (ESY Services)), then the IEP must also include goals and objectives for ESY services from the student's current IEP.
- (d) For students with visual impairments, from birth through 21 years of age, the IEP or individualized family services plan (IFSP) shall also meet the requirements of TEC, §30.002(e).
- (e) For students with autism/pervasive developmental disorders, information about the following shall be considered and, when needed, addressed in the IEP:
 - (1) extended educational programming;
 - (2) daily schedules reflecting minimal unstructured time;
 - (3) in-home training or viable alternatives;
 - (4) prioritized behavioral objectives;
 - (5) prevocational and vocational needs of students 12 years of age or older;
 - (6) parent training; and
 - (7) suitable staff-to-students ratio.
- (f) If the ARD committee determines that services are not needed in one or more of the areas specified in subsection (e)(1)-(7) of this section, the IEP must include a statement to that effect and the basis upon which the determination was made.
- (g) In accordance with 34 CFR §300.29, §300.344, and §300.347, for each student with a disability, beginning at age 14 (prior to the date on which a student turns 14 years of age) or younger, if determined appropriate by the ARD committee, the following issues must be considered in the development of the IEP, and, if appropriate, integrated into the IEP:
 - (1) appropriate student involvement in the student's transition to life outside the public school system; (2) if the student is younger than 18 years of age, appropriate parental involvement in the student's transitions;
 - (3) if the student is at least 18 years of age, appropriate parental involvement in the student's transition, if the parent is invited to participate by the student or the school district [or charter holder] in which the student is enrolled;

- (4) any postsecondary education options;
- (5) a functional vocational evaluation;
- (6) employment goals and objectives;
- (7) if the student is at least 18 years of age, the availability of age-appropriate instructional environments;
- (8) independent living goals and objectives; and
- (9) appropriate circumstances for referring a student or the student's parents to a governmental agency for services.

19 TAC §89.1050(e). [The report]

- (e) The written report of the ARD committee shall document the decisions of the committee with respect to issues discussed at the meeting. The report shall include the date, names, positions, and signatures of the members participating in each meeting in accordance with 34 CFR, §§300.344, 300.345, 300.348, and 300.349. The report shall also indicate each member's agreement or disagreement with the committee's decisions. In the event TEC, §29.005(d)(1), applies, the [charter holder] shall provide a written or audiotaped copy of the student's IEP, as defined in 34 CFR, §300.346 and §300.347. In the event TEC, §29.005(d)(2), applies, the [charter holder] shall make a good faith effort to provide a written or audiotaped copy of the student's IEP, as defined in 34 CFR, §300.346 and §300.347.

34 CFR §300.348. Agency responsibilities for transition services.

- (a) If a participating agency, other than the [charter holder], fails to provide the transition services described in the IEP in accordance with §300.347(b)(1), the [charter holder] shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.

34 CFR §300.350. IEP accountability.

- (a) Provision of services. Subject to paragraph (b) of this section, [the charter holder] must—
 - (1) Provide special education and related services to a child with a disability in accordance with the child's IEP; and
 - (2) Make a good faith effort to assist the child to achieve the goals and objectives or benchmarks listed in the IEP.

34 CFR §300.309. Extended school year services.

- (a) General.
 - (1) [The charter holder] shall ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section.
 - (2) Extended school year services must be provided only if a child's IEP team determines, on an individual basis, in accordance with §§300.340-300.350, that the services are necessary for the provision of FAPE to the child.
 - (3) In implementing the requirements of this section, [the charter holder] may not—
 - (i) Limit extended school year services to particular categories of disability; or
 - (ii) Unilaterally limit the type, amount, or duration of those services.
- (b) Definition. As used in this section, the term extended school year services means special education and related services that—
 - (1) Are provided to a child with a disability—
 - (i) Beyond the normal school year of the [charter school];
 - (ii) In accordance with the child's IEP; and
 - (iii) At no cost to the parents of the child; and
 - (2) Meet the standards of the [TEA].

19 TAC §89.1065. Extended School Year Services (ESY Services).

Extended school year (ESY) services are defined as individualized instructional programs beyond the regular school year for eligible students with disabilities.

- (1) The need for ESY services must be determined on an individual student basis by the admission, review, and dismissal (ARD) committee in accordance with 34 Code of Federal Regulations (CFR), §300.309, and the provisions of this section. In determining the need for and in providing ESY services, [the charter holder] may not:
 - (A) limit ESY services to particular categories of disability; or

- (B) unilaterally limit the type, amount, or duration of ESY services.
- (2) The need for ESY services must be documented from formal and/or informal evaluations provided by the [charter holder] or the parents. The documentation shall demonstrate that in one or more critical areas addressed in the current individualized education program (IEP) objectives, the student has exhibited, or reasonably may be expected to exhibit, severe or substantial regression that cannot be recouped within a reasonable period of time. Severe or substantial regression means that the student has been, or will be, unable to maintain one or more acquired critical skills in the absence of ESY services.
 - (3) The reasonable period of time for recoupment of acquired critical skills shall be determined on the basis of needs identified in each student's IEP. If the loss of acquired critical skills would be particularly severe or substantial, or if such loss results, or reasonably may be expected to result, in immediate physical harm to the student or to others, ESY services may be justified without consideration of the period of time for recoupment of such skills. In any case, the period of time for recoupment shall not exceed eight weeks.
 - (4) A skill is critical when the loss of that skill results, or is reasonably expected to result, in any of the following occurrences during the first eight weeks of the next regular school year:
 - (A) placement in a more restrictive instructional arrangement;
 - (B) significant loss of acquired skills necessary for the student to appropriately progress in the general curriculum;
 - (C) significant loss of self-sufficiency in self-help skill areas as evidenced by an increase in the number of direct service staff and/or amount of time required to provide special education or related services;
 - (D) loss of access to community-based independent living skills instruction or an independent living environment provided by noneducational sources as a result of regression in skills; or
 - (E) loss of access to on-the-job training or productive employment as a result of regression in skills.
 - (5) If the [charter holder] does not propose ESY services for discussion at the annual review of a student's IEP, the parent may request that the ARD committee discuss ESY services pursuant to 34 CFR, §300.344.
 - (6) If a student for whom ESY services were considered and rejected loses critical skills because of the decision not to provide ESY services, and if those skills are not regained after the reasonable period of time for recoupment, the ARD committee shall reconsider the current IEP if the student's loss of critical skills interferes with the implementation of the student's IEP.
 - (7) For students enrolling in a district [or charter school] during the school year, information obtained from the prior school district [or charter holder] as well as information collected during the current year may be used to determine the need for ESY services.
 - (8) The provision of ESY services is limited to the educational needs of the student and shall not supplant or limit the responsibility of other public agencies to continue to provide care and treatment services pursuant to policy or practice, even when those services are similar to, or the same as, the services addressed in the student's IEP. No student shall be denied ESY services because the student receives care and treatment services under the auspices of other agencies.
 - (9) [The charter holder is] not eligible for reimbursement for ESY services provided to students for reasons other than those set forth in this section.

 19 TAC §89.1050(g). [Discipline]

- (g) All disciplinary actions regarding students with disabilities shall be determined in accordance with 34 CFR, §§300.121 and 300.519-300.529 (relating to disciplinary actions and procedures), the TEC, Chapter 37, Subchapter A (Alternative Settings for Behavior Management), and §89.1053 of this title (relating to Procedures for Use of Restraint and Time-Out).

 19 TAC §89.1050(h). [Disagreements]

- (h) All members of the ARD committee shall have the opportunity to participate in a collaborative manner in developing the IEP. A decision of the committee concerning required elements of the IEP shall be made by mutual agreement of the required members if possible. The committee may agree to an annual IEP or an IEP of shorter duration.
 - (1) When mutual agreement about all required elements of the IEP is not achieved, the party (the parents or adult student) who disagrees shall be offered a single opportunity to have the committee recess for a period of time not to exceed ten school days. This recess is not required when the student's presence on the campus presents a danger of physical harm to the student or others or when the student has committed an expellable offense or an offense which may lead to a placement in an alternative education program (AEP). The requirements of this subsection (h) do not prohibit the members of the ARD committee from recessing an ARD committee meeting for reasons other than the failure of the parents and the [charter holder] from reaching mutual agreement about all required elements of an IEP.

- (2) During the recess the committee members shall consider alternatives, gather additional data, prepare further documentation, and/or obtain additional resource persons which may assist in enabling the ARD committee to reach mutual agreement.
- (3) The date, time, and place for continuing the ARD committee meeting shall be determined by mutual agreement prior to the recess.
- (4) If a ten-day recess is implemented as provided in paragraph (1) of this subsection and the ARD committee still cannot reach mutual agreement, the [charter holder] shall implement the IEP which it has determined to be appropriate for the student.
- (5) When mutual agreement is not reached, a written statement of the basis for the disagreement shall be included in the IEP. The members who disagree shall be offered the opportunity to write their own statements.
- (6) When the [charter holder] implements an IEP with which the parents disagree or the adult student disagrees, the [charter holder] shall provide prior written notice to the parents or adult student as required in 34 CFR, §300.503.
- (7) Parents shall have the right to file a complaint, request mediation, or request a due process hearing at any point when they disagree with decisions of the ARD committee.

TEC §37.0021. Use of Confinement, Restraint, Seclusion, and Time-Out.

- (a) It is the policy of this state to treat with dignity and respect all students, including students with disabilities who receive special education services under Subchapter A, Chapter 29. A student with a disability who receives special education services under Subchapter A, Chapter 29, may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique.
- (b) In this section:
 - (1) "Restraint" means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student's body.
 - (2) "Seclusion" means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:
 - (A) is designed solely to seclude a person; and
 - (B) contains less than 50 square feet of space.
 - (3) "Time-out" means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:
 - (A) that is not locked; and
 - (B) from which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.
- (c) [The charter holder] employee or volunteer or an independent contractor of [the charter holder] may not place a student in seclusion. This subsection does not apply to the use of seclusion in a court-ordered placement, other than a placement in an educational program of [the charter holder], or in a placement or facility to which the following law, rules, or regulations apply:
 - (1) the Children's Health Act of 2000, Pub. L. No. 106-310, any subsequent amendments to that Act, any regulations adopted under that Act, or any subsequent amendments to those regulations;
 - (2) 40 T.A.C. §§720.1001-720.1013; or
 - (3) 25 T.A.C. §412.308(e).
- (d) The commissioner [of TEA] by rule shall adopt procedures for the use of restraint and time-out by [the charter holder] employee or volunteer or an independent contractor of [the charter holder] in the case of a student with a disability receiving special education services under Subchapter A, Chapter 29. A procedure adopted under this subsection must:
 - (1) be consistent with:
 - (A) professionally accepted practices and standards of student discipline and techniques for behavior management; and
 - (B) relevant health and safety standards; and
 - (2) identify any discipline management practice or behavior management technique that requires [the charter holder] employee or volunteer or an independent contractor of [the charter holder] to be trained before using that practice or technique.

- (e) In the case of a conflict between a rule adopted under Subsection (d) and a rule adopted under Subchapter A, Chapter 29, the rule adopted under Subsection (d) controls.
- (f) For purposes of this subsection, "weapon" includes any weapon described under §37.007(a)(1). This section does not prevent a student's locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:
 - (1) the student possesses a weapon; and
 - (2) the confinement is necessary to prevent the student from causing bodily harm to the student or another person.
- (g) This section and any rules or procedures adopted under this section do not apply to:
 - (1) a peace officer while performing law enforcement duties;
 - (2) juvenile probation, detention, or corrections personnel; or
 - (3) an educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of [the charter holder].

 19 TAC §89.1053. Procedures for Use of Restraint and Time-Out.

- (a) Requirement to implement. In addition to the requirements of 34 Code of Federal Regulations (CFR), §300.346(a)(2)(i) and (c), school districts and charter schools must implement the provisions of this section regarding the use of restraint and time-out. In accordance with the provisions of Texas Education Code (TEC), §37.0021 (Use of Confinement, Restraint, Seclusion, and Time-Out), it is the policy of the state to treat with dignity and respect all students, including students with disabilities who receive special education services under TEC, Chapter 29, Subchapter A.
- (b) Definitions.
 - (1) Emergency means a situation in which a student's behavior poses a threat of:
 - (A) imminent, serious physical harm to the student or others; or
 - (B) imminent, serious property destruction.
 - (2) Restraint means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of the student's body.
 - (3) Time-out means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:
 - (A) that is not locked; and
 - (B) from which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.
- (c) Use of restraint. A school employee, volunteer, or independent contractor may use restraint only in an emergency as defined in subsection (b) of this section and with the following limitations.
 - (1) Restraint shall be limited to the use of such reasonable forces as is necessary to address the emergency.
 - (2) Restraint shall be discontinued at the point at which the emergency no longer exists.
 - (3) Restraint shall be implemented in such a way as to protect the health and safety of the student and others.
 - (4) Restraint shall not deprive the student of basic human necessities.
- (d) Training on use of restraint. Training for school employees, volunteers, or independent contractors shall be provided according to the following requirements.
 - (1) Not later than April 1, 2003, a core team of personnel on each campus must be trained in the use of restraint, and the team must include a campus administrator or designee and any general or special education personnel likely to use restraint.
 - (2) After April 1, 2003, personnel called upon to use restraint in an emergency and who have not received prior training must receive training within 30 school days following the use of restraint.
 - (3) Training on use of restraint must include prevention and de-escalation techniques and provide alternatives to the use of restraint.
 - (4) All trained personnel shall receive instruction in current professionally accepted practices and standards regarding behavior management and the use of restraint.
- (e) Documentation and notification on use of restraint. In a case in which restraint is used, school employees, volunteers, or independent contractors shall implement the following documentation requirements.

- (1) On the day restraint is utilized, the campus administrator or designee must be notified verbally or in writing regarding the use of restraint.
- (2) On the day restraint is utilized, a good faith effort shall be made to verbally notify the parent(s) regarding the use of restraint.
- (3) Written notification of the use of restraint must be placed in the mail or otherwise provided to the parent within one school day of the use of restraint.
- (4) Written documentation regarding the use of restraint must be placed in the student's special education eligibility folder in a timely manner so the information is available to the ARD committee when it considers the impact of the student's behavior on the student's learning and/or the creation or revision of a behavioral intervention plan (BIP).
- (5) Written notification to the parent(s) and documentation to the student's special education eligibility folder shall include the following:
 - (A) name of the student;
 - (B) name of the staff member(s) administering the restraint;
 - (C) date of the restraint and the time the restraint began and ended;
 - (D) location of the restraint;
 - (E) nature of the restraint;
 - (F) a description of the activity in which the student was engaged immediately preceding the use of restraint;
 - (G) the behavior that prompted the restraint;
 - (H) the efforts made to de-escalate the situation and alternatives to restraint that were attempted; and
 - (I) information documenting parent contact and notification.
- (f) Clarification regarding restraint. The provisions adopted under this section do not apply to the use of physical force or a mechanical device which does not significantly restrict the free movement of all or a portion of the student's body. Restraint that involves significant restriction as referenced in subsection (b)(2) of this section does not include:
 - (1) physical contact or appropriately prescribed adaptive equipment to promote normative body positioning and/or physical functioning;
 - (2) limited physical contact with a student to promote safety (e.g., holding a student's hand), prevent a potentially harmful action (e.g., running into the street), teach a skill, redirect attention, provide guidance to a location, or provide comfort;
 - (3) limited physical contact or appropriately prescribed adaptive equipment to prevent a student from engaging in ongoing, repetitive self-injurious behaviors, with the expectation that instruction will be reflected in the individualized education program (IEP) as required by 34 CFR §300.346(a)(2)(i) and (c) to promote student learning and reduce and/or prevent the need for ongoing intervention; or
 - (4) seat belts and other safety equipment used to secure students during transportation.
- (g) Use of time-out. A school employee, volunteer, or independent contractor may use time-out in accordance with subsection (b)(3) of this section with the following limitations.
 - (1) Physical force or threat of physical force shall not be used to place a student in time-out.
 - (2) Time-out may only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student's IEP and/or BIP if it is utilized on a recurrent basis to increase or decrease a targeted behavior.
 - (3) Use of time-out shall not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.
- (h) Training on use of time-out. Training for school employees, volunteers, or independent contractors shall be provided according to the following requirements.
 - (1) Not later than April 1, 2003, general or special education personnel who implement time-out based on requirements established in a student's IEP and/or BIP must be trained in the use of time-out.
 - (2) After April 1, 2003, newly-identified personnel called upon to implement time-out based on requirements established in a student's IEP and/or BIP must receive training in the use of time-out within 30 school days of being assigned the responsibility for implementing time-out.
 - (3) Training on the use of time-out must be provided as part of a program which addresses a full continuum of positive behavioral intervention strategies, and must address the impact of time-out on the ability of the student to be

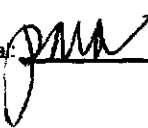
involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.

- (4) All trained personnel shall receive instruction in current professionally accepted practices and standards regarding behavior management and the use of time-out.
- (i) Documentation on use of time-out. Necessary documentation or data collection regarding the use of timeout, if any, must be addressed in the IEP or BIP. The admission, review, and dismissal (ARD) committee must use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use.
- (j) Student safety. Any behavior management technique and/or discipline management practice must be implemented in such a way as to protect the health and safety of the student and others. No discipline management practice may be calculated to inflict injury, cause harm, demean, or deprive the student of basic human necessities.
- (k) Data reporting. Beginning with the 2003-2004 school year, with the exception of actions covered by subsection (f) of this section, data regarding the use of restraint must be electronically reported to the Texas Education Agency in accordance with reporting standards specified by the Agency.
- (l) The provisions adopted under this section do not apply to:
 - (1) a peace officer while performing law enforcement duties;
 - (2) juvenile probation, detention, or corrections personnel; or
 - (3) an educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district [or charter holder].

19 TAC §89.1096. Provision of Services for Students Placed by Their Parents in Private Schools or Facilities.

- (a) Except as specifically provided in this section, in accordance with 34 Code of Federal Regulations (CFR), §300.454, no eligible student who has been placed by his or her parent(s) in a private school or facility has an individual right to receive some or all of the special education and related services that the student would receive if he or she were enrolled in a public school district [or charter school]. Except as specifically set forth in this section, a school district's [or charter holder's] obligations with respect to students placed by their parents in private schools are governed by 34 CFR, §§300.450-300.462.
- (b) When a student with a disability who has been placed by his or her parents directly in a private school or facility is referred to the local school district [or charter holder], the local district [or charter holder] shall convene an admission, review, and dismissal (ARD) committee meeting to determine whether the district [or charter holder] can offer the student a free appropriate public education (FAPE). If the district [or charter holder] determines that it can offer a FAPE to the student, the district [or charter holder] is not responsible for providing educational services to the student, except as provided in 34 CFR, §§300.450-300.462 or subsection (d) of this section, until such time as the parents choose to enroll the student in public school full-time.
- (c) Parents of an eligible student ages 3 or 4 shall have the right to "dual enroll" their student in both the public school [e.g., charter school] and the private school beginning on the student's third birthday and continuing until the end of the school year in which the student turns five or until the student is eligible to attend a district's [or charter holder's] public school kindergarten program, whichever comes first, subject to the following.
 - (1) The student's ARD committee shall develop an individualized education program (IEP) designed to provide the student with a FAPE in the least restrictive environment appropriate for the student.
 - (2) From the IEP, the parent and the district [or charter holder] shall determine which special education and/or related services will be provided to the student and the location where those services will be provided, based on the requirements concerning placement in the least restrictive environment set forth in 34 CFR, §§300.550-300.553, and the policies and procedures of the district [or charter holder].
 - (3) For students served under the provisions of this subsection, the school district [or charter holder] shall be responsible for the employment and supervision of the personnel providing the service, providing the needed instructional materials, and maintaining pupil accounting records. Materials and services provided shall be consistent with those provided for students enrolled only in the public school [e.g., charter school] and shall remain the property of the school district [or charter holder].
- (d) The school district [or charter holder] shall provide special transportation with federal funds only when the ARD committee determines that the condition of the student warrants the service in order for the student to receive the special education and related services (if any) set forth in the IEP.
- (e) Complaints regarding the implementation of the components of the student's IEP that have been selected by the parent and the district [or charter holder] under subsection (c) [(d)] of this section may be filed with the Texas Education Agency under the procedures in 34 CFR, §§300.660-300.662. The procedures in 34 CFR, §§300.504-300.515 (relating to due process hearings) do not apply to complaints regarding the implementation of the components of the student's IEP that have been selected by the parent and the district under subsection (c) [(d)]

H. Least Restrictive Environment (LRE) Placement

Initial: 

☒ **34 CFR §300.550. General LRE requirements.**

(b) [The charter holder] shall ensure—

- (1) That to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and
- (2) That special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

☒ **34 CFR §300.551. Continuum of alternative placements.**

(a) [The charter holder] shall ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

(b) The continuum required in paragraph (a) of this section must—

- (1) Include the alternative placements listed in the definition of special education under §300.26 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and
- (2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

☒ **19 TAC §89.63. Instructional Arrangements and Settings.**

(a) [The charter holder] shall be able to provide services with special education personnel to students with disabilities in order to meet the special needs of those students in accordance with 34 Code of Federal Regulations, §§300.550-300.554.

(b) Subject to §89.1075(e) of this title (relating to General Program Requirements and Local District Procedures) for the purpose of determining the student's instructional arrangement/setting, the regular school day is defined as the period of time determined appropriate by the admission, review, and dismissal (ARD) committee.

(c) Instructional arrangements/settings shall be based on the individual needs and individualized education programs (IEPs) of eligible students receiving special education services and shall include the following.

(1) **Mainstream.** This instructional arrangement/setting is for providing special education and related services to a student in the regular classroom in accordance with the student's IEP. Qualified special education personnel must be involved in the implementation of the student's IEP through the provision of direct, indirect and/or support services to the student, and/or the student's regular classroom teacher(s) necessary to enrich the regular classroom and enable student success. The student's IEP must specify the services that will be provided by qualified special education personnel to enable the student to appropriately progress in the general education curriculum and/or appropriately advance in achieving the goals set out in the student's IEP. Examples of services provided in this instructional arrangement include, but are not limited to, direct instruction, helping teacher, team teaching, co-teaching, interpreter, education aides, curricular or instructional modifications/accommodations, special materials/equipment, consultation with the student and his/her regular classroom teacher(s) regarding the student's progress in regular education classes, staff development, and reduction of ratio of students to instructional staff.

(2) **Homebound.** This instructional arrangement/setting is for providing special education and related services to students who are served at home or hospital bedside.

(A) Students served on a homebound or hospital bedside basis are expected to be confined for a minimum of four consecutive weeks as documented by a physician licensed to practice in the United States. Homebound or hospital bedside instruction may, as provided by local [charter holder] policy, also be provided to chronically ill students who are expected to be confined for any period of time totaling at least four weeks throughout the school year as documented by a physician licensed to practice in the United States. The student's ARD committee shall determine the amount of services to be provided to the student in this instructional arrangement/setting in accordance with federal and state laws, rules, and regulations, including the provisions specified in subsection (b) of this section.

- (B) Home instruction may also be used for services to infants and toddlers (birth through age 2) and young children (ages 3-5) when determined appropriate by the child's individualized family services plan (IFSP) committee or ARD committee. This arrangement/setting also applies to school districts [or charter holders] described in Texas Education Code, §29.014.
- (3) Hospital class. This instructional arrangement/setting is for providing special education instruction in a classroom, in a hospital facility, or a residential care and treatment facility not operated by the [charter holder]. If the students residing in the facility are provided special education services outside the facility, they are considered to be served in the instructional arrangement in which they are placed and are not to be considered as in a hospital class. [See the TEA Letter to the Administrator Addressed, dated February 14, 2001.]
- (4) Speech therapy. This instructional arrangement/setting is for providing speech therapy services whether in a regular education classroom or in a setting other than a regular education classroom. When the only special education or related service provided to a student is speech therapy, then this instructional arrangement may not be combined with any other instructional arrangement.
- (5) Resource room/services. This instructional arrangement/setting is for providing special education and related services to a student in a setting other than regular education for less than 50% of the regular school day.
- (6) Self-contained (mild, moderate, or severe) regular campus. This instructional arrangement/setting is for providing special education and related services to a student who is in a self-contained program for 50% or more of the regular school day on a regular school campus.
- (7) Off home campus. This instructional arrangement/setting is for providing special education and related services to the following, []:
- (A) a student who is one of a group of students from more than one school district [or charter school] served in a single location when a free appropriate public education is not available in the respective sending district [or charter school];
 - (B) a student whose instruction is provided by [the charter holder] personnel in a facility (other than a nonpublic day school) not operated by the charter holder; or
 - (C) a student in a self-contained program at a separate campus operated by the [charter holder] that provides only special education and related services.
- (8) Nonpublic day school. This instructional arrangement/setting is for providing special education and related services to students through a contractual agreement with a nonpublic school for special education.
- (9) Vocational adjustment class/program. This instructional arrangement/setting is for providing special education and related services to a student who is placed on a job with regularly scheduled direct involvement by special education personnel in the implementation of the student's IEP. This instructional arrangement/setting shall be used in conjunction with the student's individual transition plan and only after the [charter holder's] career and technology classes have been considered and determined inappropriate for the student.
- (10) Residential care and treatment facility (not school resident). This instructional arrangement/setting is for providing special education instruction and related services to students who reside in care and treatment facilities and whose parents do not reside within the boundaries of the school providing educational services to the students. In order to be considered in this arrangement, the services must be provided on a school campus. If the instruction is provided at the facility, rather than on a school campus, the instructional arrangement is considered to be the hospital class arrangement/setting rather than this instructional arrangement. Students with disabilities who reside in these facilities may be included in the average daily attendance of the school in the same way as all other students receiving special education. [See the TEA Letter to the Administrator Addressed, dated February 14, 2001.]
- (11) State school for persons with mental retardation. This instructional arrangement/setting is for providing special education and related services to a student who resides at a state school when the services are provided at the state school location. If services are provided on a local school campus, the student is considered to be served in the residential care and treatment facility arrangement/setting. [See the TEA Letter to the Administrator Addressed, dated February 14, 2001.]

34 CFR §300.552. Placements.

(See Appendix A to CFR Part 300; Q. 19, Q. 37)

In determining the educational placement of a child with a disability, including a preschool child with a disability, [the charter holder] shall ensure that—

(a) The placement decision—

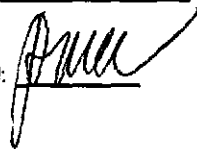
- (1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and

- (2) Is made in conformity with the LRE provisions of this subpart, including §§300.550-300.554;
- (b) The child's placement—
 - (1) Is determined at least annually;
 - (2) Is based on the child's IEP; and
 - (3) Is as close as possible to the child's home;
- (c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled;
- (d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and
- (e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

☒ **34 CFR §300.553. Nonacademic settings.**

In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in §300.306, [the charter holder] shall ensure that each child with a disability participates with nondisabled children in those services and activities to the maximum extent appropriate to the needs of that child.

I. Transition Planning

Initial: 

☒ **34 CFR §300.29. Transition services.**

- (a) As used in this part, transition services means a coordinated set of activities for a student with a disability that—
 - (1) Is designed within an outcome-oriented process, that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;
 - (2) Is based on the individual student's needs, taking into account the student's preferences and interests; and
 - (3) Includes—
 - (i) Instruction;
 - (ii) Related services;
 - (iii) Community experiences;
 - (iv) The development of employment and other post-school adult living objectives; and
 - (v) If appropriate, acquisition of daily living skills and functional vocational evaluation.
- (b) Transition services for students with disabilities may be special education, if provided as specially designed instruction, or related services, if required to assist a student with a disability to benefit from special education.

☒ **34 CFR §300.345. Parent participation.**

- (a) [Charter holder] responsibility—general. The [charter holder] shall take steps to ensure that one of both of the parents of a child with a disability are present at each IEP meeting or are afforded the opportunity to participate including—
 - (1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and
 - (2) Scheduling the meeting at a mutually agreed on time and place.
- (b) Information provided to parents.
 - (1) The notice required under paragraph (a)(1) of this section must—
 - (i) Indicate the purpose, time, and location of the meeting and who will be in attendance; and

- (ii) Inform the parents of the provisions in §300.344(a)(6) and (c) (relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the child).
- (2) For a student with a disability beginning at age 14, or younger, if appropriate, the notice must also—
 - (i) Indicate that a purpose of the meeting will be the development of a statement of the transition services needs of the student required in §300.347(b)(1); and
 - (ii) Indicate that the [charter holder] will invite the student.
- (3) For a student with a disability beginning at age 16, or younger, if appropriate, the notice must—
 - (i) Indicate that a purpose of the meeting is the consideration of needed transition services for the student required in §300.347(b)(2);
 - (ii) Indicate that the [charter holder] will invite the student; and
 - (iii) Identify any other agency that will be invited to send a representative.

☒ **34 CFR §300.344. IEP team.**

(b) Transition services participants.

- (1) Under paragraph (a)(7) of this section, the [charter holder] shall invite a student with a disability of any age to attend his or her IEP meeting if a purpose of the meeting will be the consideration of—
 - (i) The student's transition services needs under §300.347(b)(1);
 - (ii) The needed transition services for the student under §300.347(b)(2); or
 - (iii) Both.
- (2) If the student does not attend the IEP meeting, the [charter holder] shall take other steps to ensure that the student's preferences and interests are considered.
- (3) (i) In implementing the requirements of §300.347(b)(2), the [charter holder] also shall invite a representative of any other agency that is likely to be responsible for providing or paying for transition services.
- (ii) If an agency invited to send a representative to a meeting does not do so, the [charter holder] shall take other steps to obtain participation of the other agency in the planning of any transition services.

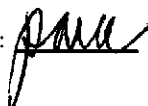
☒ **34 CFR §300.348. Agency responsibilities for transition services.**

- (a) If a participating agency, other than the [charter holder], fails to provide the transition services described in the IEP in accordance with §300.347(b)(1), the [charter holder] shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.

☒ **19 TAC §89.1055 (g). Content of the Individualized Education Program (IEP)**

- (g) In accordance with 34 CFR §300.29 , §300.344, and §300.347, for each student with a disability, beginning at age 14 (prior to the date on which a student turns 14 [15] years of age) or younger, if determined appropriate by the ARD committee, the following issues must be considered in the development of the IEP, and, if appropriate, integrated into the IEP:
 - (1) appropriate student involvement in the student's transition to life outside the public school system;
 - (2) if the student is younger than 18 years of age, appropriate parental involvement in the student's transition;
 - (3) if the student is at least 18 years of age, appropriate parental involvement in the student's transition, if the parent is invited to participate by the student or the school district [or the charter holder] in which the student is enrolled;
 - (4) any postsecondary education options;
 - (5) a functional vocational evaluation;
 - (6) employment goals and objectives;
 - (7) if the student is at least 18 years of age, the availability of age-appropriate instructional environments;
 - (8) independent living goals and objectives; and
 - (9) appropriate circumstances for referring a student or the student's parents to a governmental agency for services.

J. Certified Personnel for the Provision of Services to Children with Special Needs

Initial: 

☒ 19 TAC §89.1131. Qualifications of Special Education, Related Service, and Paraprofessional Personnel.

- (a) All special education and related service personnel shall be certified, endorsed, or licensed in the area or areas of assignment in accordance with 34 Code of Federal Regulations (CFR), §300.23 and §300.136; the Texas Education Code (TEC), §§21.002, 21.003, and 29.304; or appropriate state agency credentials.
- (b) A teacher who holds a special education certificate or an endorsement may be assigned to any level of a basic special education instructional program serving eligible students 3-21 years of age, as defined in §89.1035(a) of this title (relating to Age Ranges for Student Eligibility), in accordance with the limitation of their certification, except for the following.
 - (1) Persons assigned to provide speech therapy instructional services must hold a valid Texas Education Agency (TEA) certificate in speech and hearing therapy or speech and language therapy, or a valid state license as a speech/language pathologist.
 - (2) Teachers holding only a special education endorsement for early childhood education for children with disabilities shall be assigned only to programs serving infants through Grade 6.
 - (3) Teachers assigned full-time to teaching students who are orthopedically impaired or other health impaired with the teaching station in the home or a hospital shall not be required to hold a special education certificate or endorsement as long as the personnel file contains an official transcript indicating that the teacher has completed a three-semester-hour survey course in the education of students with disabilities and three semester hours directly related to teaching students with physical impairments or other health impairments.
 - (4) Teachers certified in the education of students with visual impairments must be available to students with visual impairments, including deaf-blindness, through one of the [charter holders] instructional options, a shared services arrangement with other school districts [or charter holders], or an education service center (ESC). A teacher who is certified in the education of students with visual impairments must attend each admission, review, and dismissal (ARD) committee meeting or individualized family service plan (IFSP) meeting of a student with a visual impairment, including deaf-blindness.
 - (5) Teachers certified in the education of students with auditory impairments must be available to students with auditory impairments, including deaf-blindness, through one of the [charter holder's] instructional options, a regional day school program for the deaf, a shared services arrangement with other school districts [or charter holders], or an ESC. A teacher who is certified in the education of students with auditory impairments must attend each ARD committee meeting or IFSP meeting of a student with an auditory impairment, including deaf-blindness.
 - (6) The following provisions apply to physical education.
 - (A) When the ARD committee has made the determination and the arrangements are specified in the student's individualized education program (IEP), physical education may be provided by the following personnel:
 - (i) special education instructional or related service personnel who have the necessary skills and knowledge;
 - (ii) physical education teachers;
 - (iii) occupational therapists;
 - (iv) physical therapists; or
 - (v) occupational therapy assistants or physical therapy assistants working under supervision in accordance with the standards of their profession.
 - (B) When these services are provided by special education personnel, the [charter holder] must document that they have the necessary skills and knowledge. Documentation may include, but need not be limited to, inservice records, evidence of attendance at seminars or workshops, or transcripts of college courses.
 - (7) Teachers assigned full-time or part-time to instruction of students from birth through age two with visual impairments, including deaf-blindness, shall be certified in the education of students with visual impairments. Teachers assigned full-time or part-time to instruction of students from birth through age two who are deaf, including deaf-blindness, shall be certified in education for students who are deaf and severely hard of hearing. Other certifications for serving these students shall require prior approval from TEA.
 - (8) Teachers with secondary certification with the generic delivery system may be assigned to teach Grades 6-12 only.

- (c) Paraprofessional personnel must be certified and may be assigned to work with eligible students, general and special education teachers, and related service personnel. Aides may also be assigned to assist students with special education transportation, serve as a job coach, or serve in support of community-based instruction. Aides paid from state administrative funds may be assigned to the Special Education Resource System (SERS), the Special Education Management System (SEMS), or other special education clerical or administrative duties.
- (d) Interpreting services for students who are deaf shall be provided by an interpreter who is certified in the appropriate language mode(s), if certification in such mode(s) is available. If certification is available, the interpreter must be certified by the Registry of Interpreters for the Deaf or the Texas Commission for the Deaf and Hard of Hearing, unless the interpreter has been granted an emergency permit by the commissioner of education to provide interpreting services for students who are deaf. The commissioner shall consider applications for the issuance of an emergency permit to provide interpreting services for students who are deaf on a case-by-case basis in accordance with requirements set forth in 34 CFR, §300.136, and standards and procedures established by the TEA. In no event will an emergency permit allow an uncertified interpreter to provide interpreting services for more than a total of three school years to students who are deaf.
- (e) Orientation and mobility instruction must be provided by a certified orientation and mobility specialist (COMS) who is certified by the Academy for Certification of Vision Rehabilitation and Education Professionals.

☒ **34 CFR §300.26. Special education.**

(a) General.

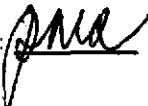
- (1) As used in this part, the term special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including—
 - (i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and
 - (ii) Instruction in physical education.
- (2) The term includes each of the following, if it meets the requirements of paragraph (a)(1) of this section:
 - (i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards;
 - (ii) Travel training; and
 - (iii) Vocational education.

(b) Individual terms defined. The terms in this definition are defined as follows:

- (1) At no cost means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.
- (2) Physical education—
 - (i) Means the development of—
 - (A) Physical and motor fitness;
 - (B) Fundamental motor skills and patterns; and
 - (C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and
 - (ii) Includes special physical education, adapted physical education, movement education, and motor development.
- (3) Specially-designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction—
 - (i) To address the unique needs of the child that result from the child's disability; and
 - (ii) To ensure access of the child to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the [charter holder] that apply to all children.
- (4) Travel training means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to—
 - (i) Develop an awareness of the environment in which they live; and
 - (ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).

- (5) Vocational education means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree.

K. Services to Expelled Students

Initial: 

☒ **34 CFR §300.121(d). Free appropriate public education (FAPE).**

(d) FAPE for children suspended or expelled from school.

- (1) [The charter holder] need not provide services during periods of removal under §300.520(a)(1) to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if services are not provided to a child without disabilities who has been similarly removed.
- (2) In the case of a child with a disability who has been removed from his or her current placement for more than 10 school days in that school year, the [charter holder], for the remainder of the removals, must—
 - (i) Provide services to the extent necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP, if the removal is—
 - (A) Under the school personnel's authority to remove for not more than 10 consecutive school days as long as that removal does not constitute a change of placement under §300.519(b) (§300.520(a)(1)); or
 - (B) For behavior that is not a manifestation of the child's disability, consistent with §300.524; and
 - (ii) Provide services consistent with §300.522, regarding determination of the appropriate interim alternative educational setting, if the removal is—
 - (A) For drug or weapons offenses under §300.520(a)(2); or
 - (B) Based on a hearing officer determination that maintaining the current placement of the child is substantially likely to result in injury to the child or to others if he or she remains in the current placement, consistent with §300.521.
- (3) (i) School personnel, in consultation with the child's special education teacher, determine the extent to which services are necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP if the child is removed under the authority of school personnel to remove for not more than 10 consecutive school days as long as that removal does not constitute a change of placement under §300.519 (§300.520(a)(1)).
- (ii) The child's IEP team determines the extent to which services are necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP if the child is removed because of behavior that has been determined not to be a manifestation of the child's disability, consistent with §300.524.

☒ **34 CFR §300.522. Determination of setting.**

- (a) General. The interim alternative educational setting referred to in §300.520(a)(2) must be determined by the IEP team.
- (b) Additional requirements. Any interim alternative educational setting in which a child is placed under §§300.520(a)(2) or 300.521 must—
 - (1) Be selected so as to enable the child to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child's current IEP, that will enable the child to meet the goals set out in that IEP; and
 - (2) Include services and modifications to address the behavior described in §§300.520(a)(2) or 300.521, that are designed to prevent the behavior from recurring.

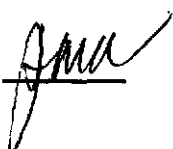
☒ **TEC §37.004. Placement of Students with Disabilities.**

- (a) The placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal committee.
- (b) Any disciplinary action regarding a student with a disability who receives special education services that would constitute a change in placement under federal law may be taken only after the student's admission, review, and

dismissal committee conducts a manifestation determination review under 20 U.S.C. §1415(k)(4) and its subsequent amendments. Any disciplinary action regarding the student shall be determined in accordance with federal law and regulations, including laws or regulations requiring the provision of:

- (1) functional behavioral assessments;
 - (2) positive behavioral interventions, strategies, and supports;
 - (3) behavioral intervention plans; and
 - (4) manifestation determination review.
- (c) A student with a disability who receives special education services may not be placed in alternative education programs solely for educational purposes.
- (d) A teacher in an alternative education program under §37.008 who has a special education assignment must hold an appropriate certificate or permit for that assignment.
- (e) [This subsection applies if the charter holder has, in its student code of conduct, adopted the provisions of TEC §37.011]. Notwithstanding any other provision of this subchapter, in a county with a juvenile justice alternative education program established under §37.011, the expulsion under a provision of §37.007 described by this subsection of a student with a disability who receives special education services must occur in accordance with this subsection and Subsection (f). The [charter school] from which the student was expelled shall, in accordance with applicable federal law, provide the administrator of the juvenile justice alternative education program or the administrator's designee with reasonable notice of the meeting of the student's admission, review, and dismissal committee to discuss the student's expulsion. A representative of the juvenile justice alternative education program may participate in the meeting to the extent that the meeting relates to the student's placement in the program. This subsection applies only to an expulsion under:
- (1) §37.007(b), (c), or (f); or
 - (2) §37.007(d) as a result of conduct that contains the elements of any offense listed in §37.007(b)(3) against any employee or volunteer in retaliation for or as a result of the person's employment or association with [the charter holder].
- (f) [This subsection applies if the charter holder has, in its student code of conduct, adopted the provisions of TEC §37.011]. If, after placement of a student in a juvenile justice alternative education program under Subsection (e), the administrator of the program or the administrator's designee has concerns that the student's educational or behavioral needs cannot be met in the program, the administrator or designee shall immediately provide written notice of those concerns to the [charter school] from which the student was expelled. The student's admission, review, and dismissal committee shall meet to reconsider the placement of the student in the program. The [charter holder] shall, in accordance with applicable federal law, provide the administrator or designee with reasonable notice of the meeting, and a representative of the program may participate in the meeting to the extent that the meeting relates to the student's continued placement in the program.
- (g) Subsections (e) and (f) and this subsection expire September 1, 2005.

L. Allowable Expenditures of State Special Education Funds

Initial: 



19 TAC §89.1125. Allowable Expenditures of State Special Education Funds.

- (a) Persons paid from special education funds shall be assigned to instructional or other duties in the special education program and/or to provide support services to the regular education program in order for students with disabilities to be included in the regular program. Support services shall include, but not be limited to, collaborative planning, co-teaching, small group instruction with special and regular education students, direct instruction to special education students, or other support services determined necessary by the admission, review, and dismissal (ARD) committee for an appropriate program for the student with disabilities. Assignments may include duties supportive to school operations equivalent to those assigned to regular education personnel.
- (b) Personnel assigned to provide support services to the regular education program as stated in subsection (a) of this section may be fully funded from special education funds.
- (c) If personnel are assigned to special education on less than a full-time basis, except as stated in subsection (a) of this section, only that portion of time for which the personnel are assigned to students with disabilities shall be paid from state special education funds.

- (d) State special education funds may be used for special materials, supplies, and equipment which are directly related to the development and implementation of individualized education programs (IEPs) of students and which are not ordinarily purchased for the regular classroom. Office and routine classroom supplies are not allowable. Special equipment may include instructional and assistive technology devices, audiovisual equipment, computers for instruction or assessment purposes, and assessment equipment only if used directly with students.
- (e) State special education funds may be used to contract with consultants to provide staff development, program planning and evaluation, instructional services, assessments, and related services to students with disabilities.
- (f) State special education funds may be used for transportation only to and from residential placements. Prior to using federal funds for transportation costs to and from a residential facility, the [charter holder] must use state or local funds based on actual expenses up to the state transportation maximum for private transportation contracts.
- (g) State special education funds may be used to pay staff travel to perform services directly related to the education of eligible students with disabilities. Funds may also be used to pay travel of staff (including administrators, general education teachers, and special education teachers and service providers) to attend staff development meetings for the purpose of improving performance in assigned positions directly related to the education of eligible students with disabilities. In no event shall the purpose for attending such staff development meetings include time spent in performing functions relating to the operation of professional organizations. In accordance with 34 Code of Federal Regulations, §300.382(j), funds may also be used to pay for the joint training of parents and special education, related services, and general education personnel.

19 TAC §105.11. Maximum Allowable Indirect Cost.

No more than 15 % of the [charter holder's] Foundation School Program special allotments under the Texas Education Code, Chapter 42, Subchapter C, may be expended for indirect costs related to the following programs: compensatory education, gifted and talented education, bilingual education and special language programs, career and technology education, and special education. Indirect costs may be attributed to the following expenditure function codes: 34 - Student Transportation; 41 - General Administration; 81 - Facilities Acquisition and Construction; and the Function 90 series of the general fund, as defined in the Texas Education Agency (TEA) bulletin, Financial Accountability System Resource Guide.

Paula Applin

Signature of the Chairperson of the Board of the Charter Holder

11-20-04

Date of Signature

PAULA APPLIN, PRESIDENT

Typed name and Title of the Chairperson of the Board of the Charter Holder

TEXAS EDUCATION AGENCY



CHARTER SCHOOLS

1701 N. Congress
Austin, Texas 78701
Phone: (512) 463-9575
Fax: (512) 463-9732

Fax

To: Paula Applin Fax: 210-226-8548

Academy of Careers and Technologies Charter School

From: Charter Schools Division / Monica Sena-Martinez Date: November 19, 2004

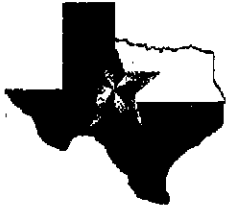
Through: Pages: 1 (plus cover)

Re: Renewal - Special Education Assurances CC:

Thanks for your help.

Sincerely,

Mia Cevallos
Division of Charter Schools, TEA
512-463-2633



TEXAS EDUCATION AGENCY

1701 North Congress Ave. ★ Austin, Texas 78701-1494 ★ 512/463-9734 ★ FAX: 512/463-9838 ★ <http://www.tea.state.tx.us>

Shirley J. Neeley, Ed.D.
Commissioner

November 19, 2004

Dear Chairperson of the Board of the Charter Holder:

Your school's application for charter renewal has not yet been acted upon by the commissioner of education. Renewal applications submitted by most Generation Three charter schools are still under review by the agency. Please remember that, as stated in 19 TAC §100.1031(a), if a charter holder makes timely and sufficient application for renewal, the existing contract does not expire until the commissioner has finally granted or denied the application. The agency's receipt of your school's renewal application satisfies this rule.

Additionally, in order to clear the special education review, please complete the "Charter Holder Special Education Assurances" and submit the original signed document to the Division of Charter Schools, Texas Education Agency, 1701 N. Congress Ave., Austin, Texas 78701. The "Charter Holder Special Education Assurances" can be located on the web at <http://www.tea.state.tx.us/charter/forms/forms.htm>. This document is required as part of the charter renewal application process.

Should you have any questions, feel free to contact me in the Division of Charter Schools at (512) 463-9575.

Sincerely,

Monica Sena-Martinez
Division of Charter Schools

"Good, Better, Best--never let it rest--until your good is better--and your better is BEST!"



TEXAS EDUCATION AGENCY

1701 North Congress Ave. ★ Austin, Texas 78701-1494 ★ 512/463-9734 ★ FAX: 512/463-9838 ★ <http://www.tea.state.tx.us>

Shirley J. Neeley, Ed.D.

Commissioner

May 20, 2005

Ms. Paula Applin, Chair
Academy of Careers and Technology (ACT)
807 Roosevelt
San Antonio, TX 78210

Re: Charter Renewal for Academy of Careers and Technologies Charter School

Dear Ms. Applin:

I am pleased to inform you that the charter renewal is approved for Academy of Careers and Technologies Charter School with a contract ending date of July 31, 2006. After renewal, the charter contract shall consist of the following:

- the representations and assurances made by the charter holder in the original request for application under the standard application system;
- the original contract for charter, as signed by the charter holder and the State Board of Education;
- any condition, amendment, modification, revision, or other change to the charter approved by the State Board of Education or the commissioner of education;
- the final renewal application, on file with the Division of Charter Schools, including any revisions required by the agency and any amendments to the charter made through the renewal application, except any responses in the following sections including relevant attachments (not all applications contain each section listed): Code of Conduct; Evaluation of Student Performance; Student Performance Goals; Plans and Initiatives to Improve Student Performance; Monitoring Follow-Up; IDEA Key Components; and Information Request Subsections D and E;
- conditions as described in the attached document, Exhibit I; and
- all statements, assurances, commitments and representations made by the charter holder in its application for charter renewal and its attachments or related documents, to the extent that these documents are consistent with those listed above.

Note that this contract is contingent upon legislative authorization and that the contract and the funding under it may be modified or even terminated by future legislative act. Furthermore, state and federal laws and rules may periodically be adopted, amended, or repealed and all such changes applicable to the charter holder or its charter school(s) may modify this contract, as of the effective date provided in the law or rule. Nothing in this contract shall be construed to entitle the charter holder to any privilege or benefit, including any funding, but in accordance with state and federal laws in effect and as they may in the future be amended. A contract term that conflicts with any state or federal law or rule is superseded by the law or rule to the extent that the law or rule conflicts with the contract term.

"Good, Better, Best—never let it rest—until your good is better—and your better is BEST!"

In order to acknowledge acceptance of this renewed contract, the chair of the charter holder board must sign below and return the entire original document to TEA's Division of Charter Schools, William B. Travis Building Room 5-107, 1701 North Congress Avenue, Austin, Texas 78701-1494. The charter holder should keep a copy of the document for its files. Please contact the Division of Charter Schools at (512) 463-9575 with any questions.

Sincerely,



Shirley J. Neeley, Ed. D.
Commissioner of Education

cc: Tonja Nelson, Superintendent

I the undersigned hereby certify that the governing body of the charter holder has accepted and agreed to the charter renewal agreement for Academy of Careers and Technologies Charter School as outlined in the foregoing letter and the attached Exhibit 1 and has authorized me to sign below.

Agreed and Accepted:

Paula Applin
Chair, Academy of Careers and Technology (ACT)

Date