

**SPECIAL MEETING OF THE BOARD OF TRUSTEES  
DALLAS COUNTY COMMUNITY COLLEGE DISTRICT  
AND RICHLAND COLLEGIATE HIGH SCHOOL**

**R.L. Thornton, Jr. Administration Building**

**701 Elm Street**

**Dallas, TX 75202**

**Board Room (4<sup>th</sup> floor)**

**Friday, December 15, 2006**

**1:00 PM**

**AGENDA**

- I. Certification of Posting of Notice of the Meeting
- II. Citizens Desiring to Address the Board Regarding Agenda Items
- III. Individual Items
  1. Approval of Audited Annual Financial Statements
  2. Approval of Special Education Policies for Richland Collegiate High School
  3. Approval of Sale of the Universities Center of Dallas to University of North Texas System
- IV. Questions/Comments from the Board and Chancellor
- V. Citizens Desiring to Appear Before the Board
- VI. Executive Session: The Board may conduct an executive session as authorized under §551.074 of the Texas Government Code to deliberate on personnel matters, including any prospective employee who is noted in Employment of Contractual Personnel.

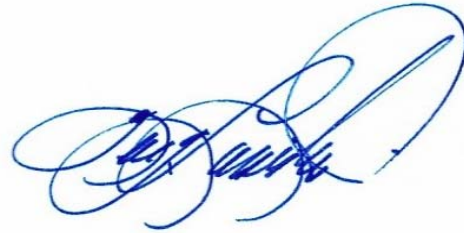
As provided by §551.072 of the Texas Government Code, the Board of Trustees may conduct an executive session to deliberate regarding real property since open deliberation would have a detrimental effect upon negotiations with a third person.

The Board may conduct an executive session under §551.071 of the Texas Government Code to seek the advice of its attorney and/or on a matter in which the duty of the attorneys under the Rules of Professional Conduct clearly conflict with the Open Meetings Act. The Board may seek or receive its attorney's advice on other legal matters during this executive session.

- VII. Adjournment of Special Meeting

**CERTIFICATION OF POSTING OF NOTICE DECEMBER 15, 2006  
SPECIAL MEETING OF THE DCCCD BOARD OF TRUSTEES  
AND RICHLAND COLLEGIATE HIGH SCHOOL**

I, Wright L. Lassiter Jr., Secretary of the Board of Trustees of the Dallas County Community College District, do certify that a copy of this notice was posted on the 12<sup>th</sup> day of December, 2006 in a place convenient to the public in the R. L. Thornton Jr. Building, and a copy of this notice was provided on the 12<sup>th</sup> day of December, 2006 to Cynthia Figueroa Calhoun, County Clerk of Dallas County, Texas, and the notice was posted on the bulletin board at the Frank Crowley Courts Building, all as required by the Texas Government Code, §551.054.



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Wright L. Lassiter Jr., Secretary

POLICY REPORT NO. 1

Approval of Audited Annual Financial Statements

It is recommended that the Board of Trustees accept the audited annual financial statements.

POLICY REPORT NO. 2

Approval of Special Education Policies for Richland Collegiate High School

It is recommended that the Board of Trustees adopt the attached Special Education Policies for the Richland Collegiate High School and that the Board Chairman sign appropriate documents to that end.

Effective Date: December 15, 2006

I. Board Date: 12/15/2006

II. Agenda Item Title: Approval of Special Education Policies for Richland Collegiate High School

III. Background:

The Texas Education Agency requires that public charter school Boards adopt policies for special education. The special education policies must be Board approved by December of each year and submitted to the Texas Education Agency by January 1.

IV. Analysis:

Special education policies govern treatment of special education students in the Richland Collegiate High School.

V. Resource: Steve Mittelstet  
Superintendent Richland Collegiate High School  
(972) 238-6364

Robert J. Young  
District Legal Counsel  
(214) 860-2470

## **RICHLAND COLLEGIATE HIGH SCHOOL SPECIAL EDUCATION POLICIES**

### **INTRODUCTION**

Richland Collegiate High School (RCHS), an open-enrollment charter school, shall provide special education services to eligible students in accordance with all applicable federal law and regulations, state statutes, rules of the State Board of Education (SBOE) and commissioner of education, and the State Plan Under Part B of the Individuals with Disabilities Education Act (IDEA).

To be eligible to receive special education services, a student must be a "child with a disability," as defined in the federal regulations implementing IDEA and the Texas Education Code. Eligibility categories, as defined in Title 19 of the Texas Administrative Code Section 89.1040, include the following: autism, deaf-blindness, auditory impairment, emotional disturbance, mental retardation, multiple disabilities, orthopedic impairment, other health impairment, learning disability, speech impairment, traumatic brain injury, and visual impairment. *34 CFR 300.7(a); Tex. Educ. Code 29.003; 19 Tex. Admin. Code 89.1040.*

### **FREE APPROPRIATE PUBLIC EDUCATION (FAPE)**

Eligible RCHS students with disabilities shall receive a free appropriate public education, which may include instruction in the regular classroom, instruction through special teaching, or instruction through approved contracts. Instruction shall be supplemented by the provision of related services when appropriate. *Tex. Educ. Code 29.003(a).*

"Free appropriate public education" (FAPE) means special education and related services that:

1. Have been provided at public expense, under public supervision and direction, and without charge;
2. Meet standards set out by TEA;
3. Include an appropriate preschool, elementary school, or secondary school education; and
4. Are provided in conformity with the student's individualized education program (IEP). *20 U.S.C. 1401(9); 34 CFR 300.13; 34 CFR 300.121(d).*

### **LEAST RESTRICTIVE ENVIRONMENT**

RCHS shall ensure that, to the maximum extent appropriate, eligible RCHS students with disabilities shall be educated with students who are not disabled. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment shall occur only when 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. *20 U.S.C. 1412(a)(5); 34 CFR 300.114.*

## PRIOR WRITTEN NOTICE

RCHS shall provide written notice to the student's parent or guardian at least five school days before RCHS proposes or refuses to initiate or change the identification, evaluation, or educational placement of a student or the provision of a free appropriate education to a student. *20 U.S.C. 1415(b)(3); 19 Tex. Admin. Code 89.1015.*

## PROCEDURES & PRACTICE

The RCHS Special Education Director may develop procedures and practices consistent with federal and state laws and regulations to comply with RCHS's responsibility to provide special education services.

## IDENTIFICATION

### CHILD FIND

RCCHS is responsible for providing a free appropriate public education (FAPE) to all individuals with disabilities who are enrolled at RCCHS. Eligible students are served by RCCHS with the assistance of the Texas Education Agency and the Region 10 Education Service Center. Regardless of the severity of the disability, RCCHS will make every effort to locate, identify, and evaluate these individuals.

The RCCHS Special Education Director is responsible for implementation and direction of the "Child Find" program, as well as annually identifying any other staff members who will participate in the organization and implementation of the child find program.

Any RCCHS students who are suspected of having a disability and may be in need of special education services under the IDEA, may be referred for an evaluation to determine eligibility for Special Education services using referral procedures adopted by the school.

All federal and state regulations governing the confidentiality of records, timelines, and implementation of programs for students eligible for special education services will be adhered to in this program. *20 U.S.C. 1412(a)(3)(A); 34 CFR 300.111.*

### PRE-REFERRAL ACTIVITIES

Pre-referral activities are general education initiatives designed to address problems that students are experiencing in the general education program.

Student Support Team (SST) – a team consisting of teachers, administrators, school counselors, and/or the parent(s) may elect to review the performance of a student who is experiencing difficulties in the general education program, either with academics or behavior. Student work samples, grades, standardized test results, state competency testing, anecdotal records, and discipline records may be included in this review. Adaptations within the general education program may be initiated and may include any methods and/or interventions the SST recommends to resolve the student's academic or behavioral difficulties, including, but not limited to, intervention strategies, tutorials, remedial services and compensatory services. The team may reconvene to review the student's progress after implementation of the adaptations. If the adaptations are not successful, the SST committee may determine that a referral for Special Education evaluation is appropriate.

A referral for Special Education 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. This referral will be forwarded to the campus SST team. *19 Tex. Admin. Code 89.1011.*



## EVALUATION

### INITIAL EVALUATION

RCCHS shall conduct a full and individual initial evaluation before the initial provision of special education and related services. *20 U.S.C. 1414(a)(1)(A)*.

RCCHS shall ensure that assessments of students who transfer during the academic year are coordinated with the student's prior and subsequent schools, as necessary, and as expeditiously as possible, to ensure prompt completion of evaluations. *20 U.S.C. 1414(b)(3)(D)*.

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. *20 U.S.C. 1414(a)(1)*.

### CONSENT FOR INITIAL EVALUATION

Before RCCHS conducts an initial assessment, it shall obtain informed, written parental consent for the evaluation by giving the student's parent prior written notice, which includes a full explanation of all procedural safeguards and describes evaluation procedures that RCCHS proposes to conduct. If the parent does not provide consent for an initial evaluation, or if the parent fails to respond to a request to provide consent, then RCCHS may pursue the initial evaluation by utilizing due process procedures.

If a parent revokes consent, that revocation is not retroactive. A revocation does not negate an action that occurred after the consent was given and before the consent was revoked.

Parental consent for an evaluation shall not be construed as consent for placement. *20 U.S.C. 1414(a)(1)(D), (E); 34 CFR 300.300*.

### INITIAL REFERRAL

The admission, review, and dismissal (ARD) committee shall make its decisions regarding a student referred for a full and individual initial evaluation within 30 calendar days from the date of the completion of the written evaluation report. If the 30th day falls during the summer and school is not in session, then the ARD committee shall have until the first day of classes in the Fall semester to finalize decisions concerning the initial eligibility determination, the IEP, and placement, unless the initial evaluation indicates the student will need extended school year (ESY) services during that summer. *19 Tex. Admin. Code 89.1050(d)*.

## COPY OF REPORT TO PARENTS

A copy of the evaluation report and the documentation of determination of eligibility must be given to the parent. *20 U.S.C. 1414(b)(4)(B)*.

## REEVALUATIONS

RCCHS shall ensure that each child is reevaluated if RCCHS determines that the educational or related services needs of the child, including improved academic achievement and functional performance, warrant a reevaluation, or if the child's parent or teacher requests a reevaluation.

Reevaluation shall occur:

1. No more than once a year, unless the parent and RCCHS agree otherwise; and
2. At least once every three years, unless the parent and RCCHS agree that a reevaluation is unnecessary. *20 U.S.C. 1414(a)(2), (b), (c); 34 CFR 300.303*.

## CONSENT FOR REEVALUATION

RCCHS must obtain informed parental consent prior to conducting any reevaluation of a student with a disability. If the parent refuses consent to the reevaluation, RCCHS may pursue the reevaluation through the due process procedures. Parental consent need not be obtained if RCCHS can demonstrate that it made reasonable efforts to obtain consent and the parent failed to respond. *20 U.S.C. 1414(c)(3); 34 CFR 300.300(c)*.

## DETERMINATION OF NEEDED EVALUATION DATA

As part of an initial evaluation (if appropriate) and as part of any re-evaluation, a group that includes the ARD committee members and other qualified professionals, as appropriate, shall:

1. Review existing evaluation data, including but not limited to, evaluations provided by the parents of the student, current classroom-based assessments and observations by the teachers and related services providers.
2. Identify what additional data, if any, is needed to determine:
  - a) Whether the student has a particular category of disability, or, in the case of a re-evaluation of a student, whether the student continues to have such a disability;
  - b) The present levels of academic achievement and functional performance and educational needs of the student;
  - c) Whether the student needs special education and related services, or in the case of a re-evaluation of a student, whether the student continues

to need special education and related services;

- d) Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student and to participate, as appropriate, in the general curriculum.

If the ARD committee determines that no additional data is needed to ascertain whether the student continues to be a student with a disability, then RCHS:

1. Shall notify the student's parent(s) of that determination and the reasons for it;
2. Shall notify the student's parent(s) of the right of the parents to request an evaluation to determine whether, for purposes of services, the student continues to be a student with a disability;
3. Is not required to conduct the evaluation unless requested to do so by the student's parents. *34 CFR 300.305.*

#### INDEPENDENT EVALUATION

The parents of an RCHS student who has been evaluated have a right to obtain an independent educational evaluation if they disagree with RCHS's evaluation.

If a parent requests an independent evaluation, then RCHS shall provide the parents with information regarding where one can be obtained. In addition, RCHS shall either ensure that an evaluation is performed at public expense or initiate a due process hearing to establish that RCHS's evaluation is appropriate.

If an independent evaluation is at public expense, then the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that RCHS uses when it initiates an evaluation.

If RCHS initiates a due process hearing, and RCHS's evaluation is found to be appropriate, then the parent still has a right to an independent evaluation, but not at public expense. If the parent obtains an independent educational evaluation at private expense, then the results of the evaluation shall be considered by RCHS, if it meets RCHS criteria, in any decision made with respect to providing a free appropriate public education to the student. *34 CFR 300.502.*

#### PSYCHOLOGICAL EXAMINATIONS AND TESTS

On request of a child's parent, before obtaining the parent's consent for the administration of any psychological examination or test to the child as part of the evaluation of the child's need for special education, RCHS shall provide to the child's parent:

1. The name and type of the examination or test; and

2. An explanation of how the examination or test will be used to develop an appropriate IEP for the child. *Tex. Educ. Code 29.0041.*

The time required for RCHS to provide information and seek consent under Education Code 29.0041(b) may not be counted toward the 60 calendar days for completion of an initial evaluation. If a parent does not give consent within 20 calendar days after the date RCHS provided to the parent the information required, then the parent's consent is considered denied.

#### PRESCRIPTION MEDICATION

An employee of RCHS is prohibited from requiring a child to obtain a prescription for a substance covered under the federal Controlled Substances Act (21 U.S.C. 801 *et seq.*) as a condition of attending school, receiving an evaluation for special education, or receiving special education and related services.

An employee is not prohibited from consulting or sharing classroom-based observations with parents regarding a student's academic and functional performance, behavior in the classroom or school, or the need for evaluation for special education or related services. *20 U.S.C. 1412(a)(25).*

## ELIGIBILITY DETERMINATION

### DETERMINATION OF ELIGIBILITY

The initial evaluation shall consist of procedures to determine whether a RCHS student is a child with a disability and must occur within 60 days of receiving parental consent for the evaluation.

This time frame shall not apply if:

1. An RCHS student enrolls after the relevant time frame has begun and before the previous district made a determination as to whether the child has a disability, but only if RCHS is making sufficient progress to ensure a prompt completion of the evaluation and the parent and RCHS agree to a specific time for completion of the evaluation; or
2. The parent repeatedly fails or refuses to produce the RCHS student for the evaluation.  
*20 U.S.C. 1414(a)(1)(C)(ii); Tex. Educ. Code 29.004.*

Upon completion of the administration of assessments and other evaluation measures, a team of qualified professionals and the parent shall make the determination of whether the child is eligible for special education and related services. A student is eligible to participate in RCHS's special education program if the student is not more than 21 years of age and has one or more of the disabilities listed in federal regulations, state law, or both; and the student's disability(ies) prevent the student from being adequately or safely educated without the provision of special services. A lack of instruction in reading or math or limited English proficiency shall not be the determinant factor. *20 U.S.C. 1414(b)(4)-(5); Tex. Educ. Code 29.003(B); 19 Tex. Admin. Code 89.1035; 19 Tex. Admin. Code 89.1040.*

### CONSENT TO SERVICES

Before initially placing an RCHS student in RCHS's special education program, RCHS shall seek informed consent from the student's parent.

If the parent refuses to consent to services or fails to respond to a request to provide consent, RCHS shall not provide special education and related services to the child and RCHS shall not be considered to be in violation of the requirement to make available a free and appropriate public education to the child. RCHS is not required to convene an individualized education program (IEP) meeting or develop an IEP for the services for which RCHS requested consent. *20 U.S.C. 1414(a)(1)(D); 34 CFR 300.300..*

## CHANGE IN ELIGIBILITY

RGHS shall evaluate a child before determining that the child is no longer a child with a disability. However, an evaluation is not required before the termination of eligibility due to graduation with a regular diploma or due to exceeding the age eligibility for a free appropriate public education under state law. *20 U.S.C. 1414(c)(5)*.

## PLACEMENT OPTIONS

Instructional arrangements/settings shall be based on the individual needs and IEPs of eligible students receiving special education services. Placement options include:

1. Mainstream -- providing services in a regular classroom;
2. Homebound -- providing services at home or hospital bedside;
3. Hospital class -- providing services in a classroom, hospital facility, or residential care and treatment facility not operated by RGHS;
4. Speech therapy -- providing speech therapy services in a regular education classroom or other setting;
5. Resource room -- providing services in a setting other than the regular classroom for less than 50 percent of the regular school day;
6. Self-contained (mild, moderate, or severe) regular campus -- providing services to a student who is in a self-contained program for 50 percent or more of the regular school day on a regular school campus;
7. Nonpublic day school -- providing services through a contractual agreement with a nonpublic school for special education;
8. Vocational adjustment program -- providing 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;
9. State school for persons with mental retardation -- providing services to a student who resides at a state school when the services are provided at the state school location; or
10. Other program options: including contracts with other school districts and programs approved by TEA. *19 Tex. Admin. Code 89.63(c), (f)*.

## SHARED SERVICES ARRANGEMENTS

RGHS may enter into a written contract to jointly operate its special education program. The contract must be approved by the Commissioner of Education. Education Code 29.007

## **INDIVIDUALIZED EDUCATION PROGRAM (IEP) AND ARDS**

### **ADMISSION, REVIEW, AND DISMISSAL COMMITTEE**

RGHS shall establish an admission, review, and dismissal (ARD) committee for each eligible student with a disability and for each student for whom a full and individual initial evaluation is conducted. The ARD committee shall be the individualized education program (IEP) team as defined at 34 CFR 300.344.

### **RESPONSIBILITIES OF ARD COMMITTEE AND IEP TEAM**

The ARD committee and RGHS are 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. Evaluation, re-evaluation, and determination of eligibility for special education and related services;
2. Placement of eligible students with disabilities;
3. Development of the student's individualized education program (IEP);
4. Compliance with the least restrictive environment standard;
5. Compliance with state requirements for reading diagnosis and state assessments;
6. Development of intensive programs of instruction under Education Code 28.0213;
8. Evaluation, placement, and coordination of services for students who are deaf, hard of hearing, blind or visually impaired; and
9. Determining eligibility for extracurricular activities, under Education Code 33.081.

*Tex. Admin. Code 89.1050(a).*

### **ARD COMMITTEE MEMBERS**

RGHS shall ensure that each ARD committee meeting includes all of the following:

1. The parents of a child with a disability;
2. At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
3. At least one special education teacher or, if appropriate, at least one special education provider of the child;
4. A representative of RGHS who:
  - a. Is qualified to provide or supervise the provision of specially-designed instruction to meet the unique needs of children with disabilities;
  - b. Is knowledgeable about the general education curriculum; and
  - c. Is knowledgeable about the availability of resources of RGHS;

5. An individual who can interpret the instructional implications of evaluation results, who may already be a member of the ARD committee, as listed in items 1-4, above;
6. The child, if appropriate; and
7. Other individuals who have knowledge or special expertise regarding the child at the discretion of RCHS or the parent. *34 CFR 300.321.*

A member of the ARD committee shall not be required to attend an ARD committee meeting, in whole or in part, if the parent and RCHS agree in writing that attendance is not necessary because the member's area of the curriculum or related services is not being modified or discussed during the meeting.

A member of the ARD committee may be excused from attending an ARD committee meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of curriculum or related services if the parent and RCHS agree in writing and the member submits, in writing, input into the development of the IEP before the meeting. *20 U.S.C. 1414(d)(1)(B)-(C); 34 CFR 300.321.*

#### PARENT INVOLVEMENT

RCHS shall take steps to ensure that one or both parents of a student with a disability are present at each ARD committee meeting or are afforded an opportunity to participate, including:

1. Notice of the purpose, time, and location of the meeting, who will be in attendance, and that persons with knowledge or special expertise may be invited by either the parent or RCHS;
2. Scheduling the meeting at a mutually agreed on time and place.

If the purpose of the meeting is to consider transition services, the notice must also indicate this purpose, indicate that RCHS will invite the student, and identify any other agency that will be invited to send a representative. *34 CFR 300.322; 19 Tex. Admin. Code 89.1045.*

#### ALTERNATIVE MEANS OF MEETING PARTICIPATION

When conducting ARD committee meetings, the parent and RCHS may agree to use alternative means of meeting participation, such as video conferences and conference calls. *34 CFR 300.328.*

An ARD meeting may be conducted without a parent in attendance if RCHS is unable to convince the parents that they should attend, but RCHS shall keep a record of its attempts to arrange a mutually agreed on time and place, such as detailed records of telephone calls, correspondence, or visits made or attempted, and the results of any of those actions. *34 CFR 300.322.*



## MEETINGS

RCCHS shall initiate and conduct ARD committee meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability. The committee shall review each child's IEP periodically, and, if appropriate, revise the IEP. A meeting must be held for this purpose at least once a year.

A meeting does not include informal or unscheduled conversations involving RCCHS personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provisions if those issues are not addressed in the child's IEP. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting. *20 U.S.C. 1414(d)(4); 34 CFR 300.324.*

## MEETING AT PARENT'S REQUEST

A parent may request an ARD committee meeting at any mutually agreeable time to address specific concerns about his or her child's special education services. RCCHS must respond to the request by holding the meeting or requesting TEA's assistance through the mediation process. RCCHS shall 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. *19 Tex. Admin. Code 89.1045(b).*

## TRANSFER STUDENTS

When a student transfers to RCCHS from within the state, the ARD committee may, but is not required to, meet when the student enrolls, if, 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.

If the above conditions 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:

1. 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
2. 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 RCCHS. 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.

The previous school district must provide RCHS a copy of the student's records, including the child's special education records, not later than the 30th calendar day after the student is enrolled at RCHS. *19 Tex. Admin. Code 89.1050(f)*.

#### INDIVIDUALIZED EDUCATION PROGRAM (IEP)

RCHS shall develop, review, and revise an IEP for each child with a disability. *20 U.S.C. 1412(a)(4)*

At the beginning of each school year, RCHS shall have in effect, for each child with a disability in its jurisdiction, an IEP. *20 U.S.C. 1414(d)(2)(A); 34 CFR 300.323*.

The term "individualized education program" means a written statement for each student with a disability that includes:

1. A statement of the child's present levels of academic achievement and functional performance;
2. A statement of measurable annual goals, including academic and functional goals;
3. A description of how the child's progress toward the annual goals will be measured and when periodic reports on the progress of the child will be provided;
4. A statement of the specific special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child;
5. A statement of the program modifications or supports for school personnel that will be provided for the child;
6. An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in extracurricular and nonacademic activities;
7. The projected dates for initiation of services and modifications and the anticipated frequency, location, and duration of the services and modifications;
8. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state assessments;
9. Beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter, a statement of the transition service needs of the student; and
10. Beginning not later than one year before the child reaches the age of 17, a statement that the child has been informed of the rights that will transfer to the child upon reaching the age of majority. *20 U.S.C. 1414(d); 34 CFR 300.320; 19 Tex. Admin. Code 89.1055*.

#### TRANSLATION OF IEP INTO NATIVE LANGUAGE

If the parent is unable to speak English and if Spanish is the parent's native language, then RCHS shall provide a written or audiotaped copy of the student's IEP translated into

Spanish. If the parent's native language is other than Spanish or English, then RCHS shall make a good faith effort to provide a written or audiotaped copy of the student's IEP translated into the parent's native language. *Tex. Educ. Code 29.005(d)*.

#### AUTISM / PERVASIVE DEVELOPMENTAL DISORDER

For RCHS students with autism/pervasive developmental disorders, information about the following shall be considered and, when needed, shall be 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.

If the ARD committee determines that the services are not needed in one or more of the items listed in 1-7 above, then the IEP shall include a statement reflecting that decision and the basis upon which the determination was made. *19 Tex. Admin Code 89.1055(e)-(f)*.

#### COLLABORATIVE PROCESS

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

#### TEN-DAY RECESS

When agreement about all required elements of the IEP is not achieved, the parent or adult student who disagrees shall be offered a single opportunity to have the committee recess for a period 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.

These requirements do not prohibit the members of the ARD committee from recessing an ARD committee meeting for reasons other than failure of the parents and RCHS to reach agreement about all required elements of an IEP.

During the recess, the committee members shall consider alternatives, gather additional data, prepare further documentation, and/or obtain additional resource persons to enable the committee to reach agreement.

The date, time, and place for continuing the ARD committee meeting shall be determined by agreement before the recess. *19 Tex. Admin. Code 89.1050(h)*.

#### FAILURE TO REACH AGREEMENT

If, after the ten-day recess, the ARD committee still cannot reach agreement, then RCHS shall implement the IEP it has determined to be appropriate for the student. A written statement of the basis for the disagreement shall be included in the IEP. The members who disagree shall be offered the opportunity to write their own statements.

If RCHS intends to implement an IEP with which the parents or adult student disagree, it shall provide prior written notice at least five school days before implementing the IEP.

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

#### MODIFICATION OF EXISTING IEP

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

To the extent possible, RCHS shall encourage the consolidation of reevaluation meetings for the student and other ARD meetings for the student.

Changes to the IEP may be made either by the entire ARD committee or by amending the IEP by agreement, rather than redrafting the entire IEP. Upon request, a parent shall be provided with a revised copy of the IEP with amendments incorporated. *20 U.S.C. 1414(d)(3)(D)-(F)*.

## TRANSITION SERVICES

### TRANSITION SERVICES DEFINED

"Transition services" means a coordinated set of activities for a child with a disability that:

1. Is designed to be within a results-oriented process that is focused on improving the academic and functional achievement of the child to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.
2. Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests.
3. Includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and when appropriate, acquisition of daily living skills and functional vocational evaluation. *20 U.S.C. 1401(34); 34 CFR 300.43.*

### INDIVIDUAL TRANSITION PLANNING (ITP)

Beginning when a student turns 14 (or younger, if determined appropriate by the ARD committee), and updated annually, a student's IEP shall include 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 and a statement of the interagency responsibilities or any needed linkages.

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 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. *34 CFR 300.320; 19 Tex. Admin. Code 89.1055(g).*

#### MEMBERSHIP FOR TRANSITION MEETINGS

If the purpose of the meeting is to consider transition services for a student, then RCHS shall invite:

1. The student. If the student does not attend, then RCHS shall take steps to ensure that the student's preferences and interests are considered.
2. A representative of any other agency that is likely to be responsible for providing or paying for transition services. If such a representative is invited, but does not attend, RCHS shall take other steps to obtain the participation of the other agency in the planning of any transition services. *34 CFR 300.322.*

#### GRADUATION

Graduation with a regular high school diploma terminates a student's eligibility for special education services. For students who receive a diploma according to 19 Tex. Admin. Code 89.1070(c), the ARD committee shall determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age requirements.

Graduation from high school with a regular diploma constitutes a change in placement that requires prior written notice to parents.

RCHS is not required to conduct an evaluation before termination of eligibility due to graduation from RCHS with a regular high school diploma or due to exceeding the age eligibility for a free appropriate public education under state law.

RCHS shall provide the student with a summary of the student's academic achievement and functional performance, which shall include recommendations on how to assist the student in meeting the student's postsecondary goals. *20 U.S.C. 1414(c)(5); 34 CFR 300.102,.305; 19 Tex. Admin. Code 89.1070.*

## **PROCEDURAL REQUIREMENTS**

RGHS shall establish and maintain procedures to ensure that RGHS students with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education. These procedures shall include:

### **OPPORTUNITIES FOR PARENTS**

An opportunity for the parents of an RGHS student with a disability to examine all records relating to the student, or participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to the child; and to obtain an independent educational evaluation of the student.

### **ASSIGNMENT OF SURROGATE PARENT**

Procedures to protect the rights of the child whenever the parents of the child are not known, RGHS cannot locate the parents after reasonable efforts to do so, or the child is a ward of the state. These procedures shall include assigning an individual to act as a surrogate for the parents. This individual shall not be an employee of TEA, RGHS, DCCCD, or any other agency that is involved in the education or care of the child.

### **PRIOR WRITTEN NOTICE**

Prior written notice to the parents whenever RGHS proposes to initiate or change, or refuses to initiate or change: 1) the identification, evaluation, or educational placement of the child, or 2) the free appropriate public education of the child.

The written notice to parents shall be provided at least five school days before the proposed action is taken, unless the parents agree otherwise.

### **PARENTS' NATIVE LANGUAGE**

Procedures designed to ensure that the prior written notice is in the native language of the parents, unless it is clearly not feasible to do so. The notice must include the elements set forth at 34 CFR 300.503(b).

### **TRANSFER OF RIGHTS TO ADULT STUDENTS**

Beginning at least one year before a student reaches 18 years of age, the student's IEP will include a statement that the student has been informed that, unless the student's parent or other individual has been granted guardianship of the student under Chapter 13 of the Texas Probate Code, all rights granted to the parent under the IDEA '04, Part B, other than the right to receive any notice required under IDEA '04, Part B, will transfer to the student upon reaching age 18.

At the time the student reaches the age of 18, the parent(s) and the adult student will be informed that parental rights have been transferred to the student, the student has the

same right to make educational decisions as a student without a disability, any notice required under IDEA '04 will be provided to both the parent and adult student unless the student is incarcerated in an adult or juvenile, state or local correctional institution and information will be given to both parties regarding obtaining additional information.

A Notice under IDEA '04, Part B that is required to be given to an adult student and parent does not create a right for the parent to consent to or participate in the proposal or refusal to which the Notice relates. A Notice of an ARD committee meeting does not constitute invitation to, or create a right for, the parent to attend the meeting. However, the adult student or the school may invite individuals who have knowledge or special expertise regarding the student, including the parent. *34 CFR 300.520*.



## PROCEDURAL SAFEGUARDS

### NOTICE

RGHS shall provide a copy of the procedural safeguards to parents once a year, except that a copy also shall be given to the parents:

1. Upon initial referral or parental request for evaluation;
2. Upon the first occurrence of the filing of a complaint; and
3. Upon request by a parent.

RGHS may place a current copy of the procedural safeguards notice on its Internet Web site. *34 CFR 300.504*.

### CONTENTS OF NOTICE

The procedural safeguards notice shall be written in the native language of the parents (unless it clearly is not feasible to do so) and written in an easily understandable manner. The notice shall include a full explanation of the procedural safeguards relating to:

1. Independent educational evaluation;
2. Prior written notice;
3. Parental consent;
4. Access to educational records;
5. The opportunity to present and resolve complaints, including:
  - a. The time period in which to make a complaint,
  - b. The opportunity for the agency to resolve the complaint, and
  - c. The availability of mediation;
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. Due process hearings, including requirements for disclosure of evaluation results and recommendations;

10. State-level appeals;
11. Civil actions, including the time period in which to file such actions; and
12. Attorneys' fees. *20 U.S.C. 1415(a)-(b), (d); 34 CFR 300.504(c).*

## COMPLAINT PROCEDURES

A parent may request an impartial due process hearing, which shall be conducted by TEA.

### SUFFICIENT NOTICE OF COMPLAINT

A due process complaint must include:

1. the name of the student;
2. the address of the student's residence;
3. the name of the school the student is attending;
4. a description of the nature of the problem relating to the proposed or refused initiation or change, including facts related to the problem; and
5. a proposed resolution.

A party may not have a hearing on a due process complaint until the party files a complaint that meets the above requirements. RCHS may challenge the sufficiency of a complaint within 15 days of receipt of the complaint. If RCHS has not sent a prior written notice under 34 CFR 300.503 to the parent regarding the subject matter of the complaint, then RCHS must provide a response to the complaint within ten days of receiving the complaint. The response shall not preclude RCHS from asserting the complaint notice is insufficient.

A party may amend its due process complaint only if the other party consents in writing or the hearing officer consents to the amendment not less than five days prior to the due process hearing. *34 CFR 300.508 (a)-(f)*.

### RESOLUTION SESSION

Within 15 days of receiving notice of a due process complaint, RCHS must convene a meeting with the parent and the relevant members of the ARD committee, as described in 34 CFR 300.510, to discuss the due process complaint and provide an opportunity to resolve the dispute. The resolution session is not required if both the parent and RCHS agree in writing to waive the meeting or to use the mediation process described in 34 CFR 300.506.

If a resolution is reached, the parties must enter into a legally binding agreement that is signed by both the parents and a representative of RCHS and is enforceable in state court. An agreement entered into under this section may be voided by either party within three business days of the agreement's execution. *34 CFR 300.510 (d)-(e)*.

## TIME LIMIT

The parent or RCHS must request a due process hearing within one year of the date the complainant knew or should have known of the alleged action that serves as the basis for the hearing request. *20 U.S.C. 1415(f)(1)(A); 19 Tex. Admin. Code 89.1151.*

## EXCEPTION

This timeline shall not apply if the parent was prevented from requesting a hearing due to:

1. A specific misrepresentation by RCHS that it had resolved the problem forming the basis of the complaint; or
2. RCHS's withholding of information from the parent that RCHS was required by the IDEA to provide. *20 U.S.C. 1415(b)(6)-(7).*

## STAY PUT

During the pendency of any proceeding conducted under IDEA part B (regarding RCHS's obligation to provide FAPE), unless RCHS and the parent agree otherwise, the student involved in the complaint shall remain in the then-current educational placement. *20 U.S.C. 1415(j)*

## EXCEPTION

When an appeal of a manifestation determination has been requested by a parent or RCHS, the student shall remain in the interim alternative educational setting, pending the decision of the hearing officer or until the expiration of the student's assignment to the alternative setting, whichever occurs first, unless the parent and RCHS agree otherwise. *20 U.S.C. 1415(k)(3)(B), 1415(k)(7); 34 CFR 300.533.*

## DISCIPLINE

Except as set forth below, the placement of a student with a disability who receives special education services may be made only by a duly-constituted ARD committee. Any disciplinary action regarding the student shall be determined in accordance with federal and state law and regulations. *Tex. Educ. Code 37.004*

RCCHS is not required to provide services to a student during periods of disciplinary removal if the student has been removed from his or her current placement for ten school days or less in that school year, if services are not provided to a student without disabilities who has been similarly removed. *34 CFR 300.530(d)(3)*.

### SUBSEQUENT REMOVALS

After a student has been removed from his or her current placement for more than ten school days in the same school year, during any subsequent days of removal, RCCHS shall provide the services necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals in the student's IEP. This requirement applies if the subsequent removal is not a change in placement (defined below) or the behavior is determined not to be a manifestation of the student's disability.

If the removal is not a change in placement, then school personnel, in consultation with the student's special education teacher, determine the extent to which these services are necessary.

If the student is removed because of behavior that is determined not to be a manifestation of the student's disability, then the student's IEP team determines the extent to which these services are necessary. *20 U.S.C. 1412(a)(1), 1413(a)(1); 34 CFR 300.530, .531*.

### NOTICE OF PROCEDURAL SAFEGUARDS

Not later than the date on which the decision to take the disciplinary action is made, RCCHS shall notify the student's parents of the decision and of all procedural safeguards. *20 U.S.C. 1415(k)(1)*.

### REMOVALS OF TEN DAYS OR LESS

To the extent removal would apply to students without disabilities, school personnel may remove a student with a disability who violates a code of student conduct from the current placement to an appropriate interim alternative educational setting, another setting, or suspension for not more than ten school days.

School personnel may order additional removals of not more than ten consecutive school days in the same school year for separate incidents of misconduct, so long as those removals do not constitute a change in placement (defined below). *20 U.S.C. 1415(k)(1)(B); 34 CFR 300.530*.

## REMOVALS OF MORE THAN TEN DAYS – CHANGE IN PLACEMENT

Any disciplinary action that would constitute a change in placement may be taken only after the student's ARD committee conducts a manifestation determination review. *Tex. Educ. Code 37.004.*

### CHANGE IN PLACEMENT

A change in placement occurs if a student is:

1. Removed from the student's current educational placement for more than ten consecutive school days; or
2. Subjected to a series of removals that constitute a pattern because they cumulate to more than ten school days in a school year, and because of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another. *34 CFR 300.536.*

School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a student who violates a code of student conduct. *20 U.S.C. 1415(k)(1)(A).*

### MANIFESTATION DETERMINATION

Within ten school days of any decision to change the placement of a student because of a violation of a code of student conduct, RCHS, parents, and relevant members of the ARD committee shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine whether the conduct in question was:

1. Caused by, or had a direct and substantial relationship to, the student's disability; or
2. The direct result of RCHS's failure to implement the IEP.

If RCHS, the parent, and relevant members of the ARD committee determine that either of the above is applicable, then the conduct shall be determined to be a manifestation of the student's disability. *20 U.S.C. 1415(k)(1)(E); 34 CFR 300.530(e)-(f).*

### NOT A MANIFESTATION

If the determination is that the student's behavior was not a manifestation of the student's disability, then the disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner and for the same duration in which they would be applied to students without disabilities, except that RCHS shall still provide services so as to enable the student to continue to

participate in the general education curriculum and to progress toward meeting the student's IEP goals, although they may be provided in an interim alternative educational setting. *20 U.S.C. 1412(a)(1), 1415(k)(1)(C); 34 CFR 300.121(d), 300.530(c)-(d).*

## BEHAVIORAL INTERVENTION PLAN

If RCHS, the parents, and relevant members of the ARD committee determine that the conduct was a manifestation of the student's disability, then the ARD committee shall:

1. Conduct a functional behavioral assessment (FBA) and implement a behavioral intervention plan (BIP) if RCHS had not conducted an FBA before the manifestation determination and before the behavior that resulted in the change in placement.
2. If a BIP has already been developed, review the BIP and modify it, as necessary, to address the behavior.
3. Except as provided below for weapon/drug offenses or serious bodily injury, return the student to the placement from which the student was removed, unless the parent and RCHS agree to a change in placement as part of the modification of the BIP. *20 U.S.C. 1415(k)(1)(F); 34 CFR 300.530(f).*

## SUBSEQUENT REMOVALS THAT ARE NOT A CHANGE IN PLACEMENT

If a student with a BIP is subsequently removed and that removal is not a change in placement, the ARD committee shall review the BIP and its implementation to determine if modifications are necessary. If one or more members of the ARD committee believe that modifications are needed, the committee shall meet to modify the plan and its implementation, to the extent the committee determines necessary.

## INTERIM ALTERNATIVE EDUCATIONAL SETTING

### WEAPONS / DRUG/ SERIOUS BODILY INJURY OFFENSES

School personnel may remove a student to an interim alternative educational setting, for not more than 45 school days, without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:

1. Carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of a state or a school district; or
2. Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of a state or a school district; or

3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the state or RCHS. *20 U.S.C. 1415(k)(1)(G); 34 CFR 300.530(g).*

#### WEAPON

In this policy, "weapon" means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, but does not include a pocket knife with a blade of less than two and a half inches in length. *20 U.S.C. 1415(k)(7)(C); 18 U.S.C. 930(g)(2); 34 CFR 300.530(i).*

#### CONTROLLED SUBSTANCE

"Controlled substance" means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812[c]). "Illegal drug" means a controlled substance, but does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any authority under the Controlled Substance Act or any other provision of federal law. *20 U.S.C. 1415(k)(7)(A), (B); 34 CFR 300.530(i).*

#### SERIOUS BODILY INJURY

"Serious bodily injury" means bodily injury that involves:

1. A substantial risk of death;
2. Extreme physical pain;
3. Protracted and obvious disfigurement; or
4. Protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

*20 U.S.C. 1415(k)(7)(D); 18 U.S.C. 1365(h)(3); 34 CFR 300.530(i).*

#### CRITERIA FOR ALTERNATIVE SETTING

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

The setting shall be selected so as to enable the student 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 student's current IEP, that will enable the student to meet the goals set out in that IEP. The setting shall also include services and modifications designed to address the behavior that caused the student to be placed in the alternative setting so that the behavior does not recur. *20 U.S.C. 1415(k)(3).*



## APPEALS

A parent who disagrees with a placement decision or the manifestation determination may request a hearing.

If RCHS believes that maintaining a current placement of a student is substantially likely to result in injury to the student or others, the school may request a hearing. *20 U.S.C. 1615(k)(3)(A); 34 CFR 300.532; 19 Tex. Admin. Code 89.1151.*

A hearing officer may hear and decide the appeal. *20 U.S.C. 1415(k)(3)(B).*

## PLACEMENT DURING APPEALS

When an appeal has been requested by a parent or RCHS:

1. The student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the student's assignment to the alternative setting, whichever occurs first, unless the parent and RCHS agree otherwise; and
2. The state or RCHS shall arrange for an expedited hearing, which shall occur within 20 school days of the date the hearing is requested and shall result in a determination ten school days after the hearing.

*20 U.S.C. 1415(k)(3)(B), 1415(k)(7); 34 CFR 300.533.*

## TRANSFER OF RECORDS

If RCHS initiates disciplinary procedures applicable to all students, RCHS shall ensure that the student's special education and disciplinary records are transmitted for consideration by the person or persons making the final determination regarding the disciplinary action. *20 U.S.C. 1415(k)(5)(B).*

## REPORTING CRIMES

Federal law does not prohibit RCHS from reporting a crime committed by a student with a disability to appropriate authorities. If RCHS reports a crime, then RCHS shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities. However, because RCHS may transmit records only to the extent permitted by the Family Educational Rights and Privacy Act (FERPA), written consent from the parent or adult student must be obtained before RCHS may transfer such records. *20 U.S.C. 1415(k)(6).*

## STUDENTS NOT YET IDENTIFIED

A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated a code of student conduct may assert any of the protections provided for in the IDEA if RCHS had knowledge that the

student had a disability before the behavior that precipitated that disciplinary action occurred. *20 U.S.C. 1415(k)(5)(A)*.

## KNOWLEDGE

RCCHS shall be deemed to have knowledge that a student has a disability if, before the behavior that precipitated the disciplinary action occurred:

1. The parent of the student has expressed concern in writing to supervisory or administrative personnel of RCCHS or to the teacher of the student that the student is in need of special education and related services;
2. The parent of the student has requested an evaluation of the student for special education and related services in writing; or
3. The student's teacher, or other RCCHS personnel, has expressed specific concerns about a pattern of behavior demonstrated by the student directly to the special education director or to other supervisory personnel of RCCHS. *20 U.S.C. 1415(k)(5)(B); 34 CFR 300.534.*

RCCHS shall not be deemed to have knowledge that the student had a disability if:

1. The parent has not allowed an evaluation of the student;
2. The parent has refused services; or
3. The student has been evaluated and it was determined that the student did not have a disability. *20 U.S.C. 1415(k)(5)(C); 34 CFR 300.534.*

If RCCHS does not have knowledge (as described above), before taking disciplinary measures, that a student has a disability, the student may be subjected to the same disciplinary measures as are applied to students without disabilities who engaged in comparable behaviors.

However, if a request is made for an evaluation during the time period in which the student is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. Pending the results of the evaluation, the student shall remain in the educational placement determined by school authorities. *20 U.S.C. 1415(k)(5)(D); 34 CFR 300.534.*

## BEHAVIOR MANAGEMENT TECHNIQUES

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.

### CONFINEMENT

A student with a disability who receives special education services may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique. Texas Education Code 37.0021 does not prevent a student's locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:

1. The student possesses a weapon; and
2. The confinement is necessary to prevent the student from causing bodily harm to the student or another person.

For these purposes, "weapon" includes any weapon described under Education Code 37.007(a)(1). *Tex. Educ. Code 37.0021.*

### SECLUSION

A RCHS employee or volunteer or an independent contractor of RCHS may not place a student in seclusion. "Seclusion" means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:

1. Is designed solely to seclude a person; and
2. Contains less than 50 square feet of space.

Education Code 37.0021 and any rules or procedures adopted under Education Code 37.0021 do not apply to a peace officer, while performing law enforcement duties; juvenile probation, detention, or corrections personnel; or 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. *Tex. Educ. Code 37.0021.*

### RESTRAINT

A school employee, volunteer, or independent contractor may use restraint only in an emergency and with the following limitations:

1. Restraint shall be limited to the use of such reasonable force as is necessary to address the emergency.

2. Restraint shall be discontinued at the point at which the emergency no longer exists.
3. Restraint shall be implemented in such a way as to protect the health and safety of the student and others.
4. Restraint shall not deprive the student of basic human necessities.

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

"Emergency" means a situation in which a student's behavior poses a threat of:

1. Imminent, serious physical harm to the student or others; or
2. Imminent, serious property destruction.

## TRAINING

Training for school employees, volunteers, or independent contractors shall be provided according to the requirements set forth at 19 Tex. Admin. Code 89.1053.

## DOCUMENTATION

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 the 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. The 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.

#### TIME-OUT

A school employee, volunteer, or independent contractor may use time-out with the following limitations.

1. Physical force or threat of physical force shall not be used to place a student in time-out.
2. Time-out may only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student's IEP and/or BIP if it is utilized on a recurrent basis to increase or decrease targeted behavior.
3. Use of time-out shall not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.

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

1. That is not locked; and
2. From which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

## TRAINING

Training regarding the use of time-out for school employees, volunteers, or independent contractors shall be provided according to the requirements set forth at 19 Tex. Admin. Code 89.1053.

## DOCUMENTATION

Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in the IEP or BIP. The ARD committee must use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use. 19 Tex. Admin. Code 89.1053.

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POLICY REPORT NO. 3

Approval of Sale of the Universities Center of Dallas to University of North Texas System

It is recommended that the Board of Trustees authorize the Chancellor to enter into an agreement to sell the Universities Center of Dallas to the University of North Texas System (UNTS) for \$745,000. The Chancellor is authorized to negotiate the final purchase agreement with UNTS and report same to the Board of Trustees.

Effective Date: December 15, 2006

I. Board Date: 12/15/2006

II. Agenda Item Title: Approval of Sale of the Universities Center of Dallas to University of North Texas System

III. Background:

The Board of Trustees approved the acquisition of the Universities Center of Dallas (UCD) formerly Dallas Education Center in 1998. The Dallas County Community College District has acted as owner and landlord of the UCD since acquisition.

Several institutions offer college classes in the UCD. Those colleges include the University of North Texas, Texas Woman's University and Texas A&M – Commerce. Although several District colleges offered courses at the UCD in the past, no District college currently offers courses there.

The University of North Texas System wishes to purchase the UCD for \$745,000. The Chancellor recommends the sale of the building.

IV. Resource: Dr. Wright L. Lassiter, Jr.  
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