

Moody Early Childhood Center Board of Directors

Special Board Meeting

Wednesday, May 17, 2023 @ 9:30 a.m.

MECC | 1110 21st Street
& Via Zoom

Join Zoom Meeting

<https://us02web.zoom.us/j/87175216083?pwd=RkJSamxQZDVoYzNPZFg2LytuQWhRZz09>

Meeting ID: 871 7521 6083
Passcode: 143202

AGENDA

1. Call to order
2. Public Comment
3. Minutes of March 24, 2023 meeting (enclosed)
4. Establish quorum / properly posted / ask for conflicts of interest
5. Discussion/ Action: Finance Committee Recommendation for approval of 2021/22 audit (enclosed)
6. Review/Approval: Revisions to GISD Contract (enclosed)
7. Confirm next meeting/adjourn

**Moody Early Childhood Center Board of Directors
Board Meeting**

Friday, March 24, 2023 @ 1:00 p.m.

Randall Rm – Rosenberg Library | 2310 Sealy, Galveston, TX
& Via Zoom

MINUTES

1. Call to order

2. Establish quorum / properly posted / conflicts of interest

Present (in person): Angela, Betty, Jeri, Dustin, Karin (Staff), Josh (Staff), Rena (Staff), Lisa (Staff)

Present (online): Amber, Chiqui (left meeting at 2:00pm), John (arrived at 1:11pm, left meeting at 2:31pm)

Absent: Erica, Weez, Marcus, Karen, Deborah

3. Public Comment

No public present

4. Minutes of February 24, 2023 meeting (enclosed)

Jeri made a motion to approve the minutes as presented. The motion was seconded by Angela.

The vote was unanimous in favor of the motion.

5. Financial Reports

a. September 2022-February 2023 reports (enclosed)

b. Finance Committee meeting notes (distributed separately)

Angela provided an overview of the reports which are included in the meeting packet.

6. Committee Reports

a. Governance: Draft MECC board Calendar (enclosed)

Dustin presented the draft board calendar - called for input/feedback on the calendar before next month's board meeting

b. Resource Development

Betty

c. Scholarship

7. Executive Director Report (enclosed)

Karin provided an overview of the report which is included in the meeting packet.

Josh, Rena, Lisa (staff) presented an overview of the physical education, art and literacy, STEAM, and Music enrichment programs

8. Discussion/Action: Infant/Toddler 2023-2024 Calendar (enclosed)

Jeri motioned to approve the IT 2023-2024 calendar as presented, John seconded the motion. Vote was unanimous in favor of the motion.

9. Update: GISD Contract Extension

Betty and Karin provided an overview of some of the issues related to the existing MOU that need to be addressed or clarified.

10. Adjourn to Executive Session – The board may recess into Closed Executive Session as permitted by the Texas Open Meeting Act Government Code Sections 551.071-551.090 Sub-chapter D and E. Should any final action, final decision, or final vote be required in the opinion of the Board with regard to any matter considered in such closed meeting then the final action, final decision or final vote shall be either:

- a. in the open meeting covered by the Notice upon the reconvening of the public meeting; or
- b. at a subsequent public meeting of the Board upon notice thereof as the board shall determine

11. Reconvene from Executive Session and take any action warranted.

Board did not adjourn to Executive Session

12. Confirm next meeting/adjourn

April 28 is next board meeting - Betty will not be present, so John will need to run meeting (Remind John)

Meeting adjourned at 2:49pm

AGREEMENT BETWEEN GALVESTON
INDEPENDENT SCHOOL DISTRICT
AND MOODY EARLY CHILDHOOD CENTER
[5/11/2023 Draft](#)

This Agreement (the "Agreement") is made and entered into as of ~~June 16, 2021~~ [July 1, 2023](#) ("Renewal Date") by and between GALVESTON INDEPENDENT SCHOOL DISTRICT, a public independent school district and political subdivision of the State of Texas, ("District") and MOODY EARLY CHILDHOOD CENTER ("Operating Partner" or "OP") (together, the "Parties") to operate MOODY EARLY CHILDHOOD CENTER (the "School"). The purpose of this Agreement is to set forth the objectives, understandings, and agreements of the Parties in connection with the establishment and operation of Senate Bill No. 1882, adopted by the 85th Texas Legislature in 2017, codified as Texas Education Code §11.174 and §42.2511 ("SB 1882"), which allows this cooperative partnership between a public education institution and an in-district charter.

ARTICLE 1. RECITALS

1.01 Independent School District. The District is an independent school district created in accordance with the laws of Texas.

1.02 Authority to Contract. The Board of Trustees of the District is empowered by Texas Education Code ("TEC") §11.157 and §11.174, to contract with a public or private entity for that entity to provide educational services for the District.

1.03 Statutory Authorization. This Agreement is made pursuant to and in accordance with SB 1882, which allows school districts to partner with either an open-enrollment charter school or other eligible entity to operate a district campus, including an in-district charter as in this Agreement.

1.04 Non-Profit Organization. Moody Early Childhood Center is an organization that is exempt or has applied for exemption from taxation under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. §501(c)(3)) and is hereby contracted to operate a charter granted to the School under TEC Subchapter C, Chapter 12 and is eligible under TEC §11.174 and, §12.101 (a) to operate the School.

1.05 Charter Granted & Term of Charter. On this Commencement Date, the District hereby grants the School a charter in accordance with and under TEC Chapter 12, Subchapter C, specifically §12.0521 or §12.0522. This is not an in-district charter with the lowest performance rating in accordance with TEC §12.0522(c), such that this Agreement is subject to the 15% limit in TEC §12.0522(c). The District shall ensure that the charter is properly authorized under TEC Chapter 12, Subchapter C. A charter granted under TEC Chapter 12, Subchapter C begins on August 1, 2018 and expires on July 31, 2028 unless the specified performance goals set forth in Addendum A-3 are substantially met, as determined by the Board of Trustees of the District in accordance with TEC §12.0531.

1.06 Consultation. The District has consulted with District-employed campus personnel regarding provisions to be included in this Agreement. The District's consultation with campus personnel occurred at a meeting where personnel were able to ask questions and receive information. At that meeting, the District informed campus personnel of the opportunity to apply for an "assignment" at the School and campus personnel understand that all assignments shall be determined by OP and the District (as detailed in Article IX below) and that OP may have a separate Employee Handbook than what is required of the District. The District recognizes that all rights and protections afforded by current employment contracts it has with personnel shall not be affected by this Agreement.

1.07 Consideration. In consideration of the mutual agreements set forth in this Agreement, and for other good and valuable consideration, the Parties agree as follows:

ARTICLE II. PURPOSE OF AGREEMENT

2.01 Contract for Services. This Agreement constitutes a contract for services.

2.02 Premise of Agreement. This Agreement is predicated on an understanding that students benefit when decisions regarding educational programs, operations, and student services are made at the school level and that autonomy and accountability are mutually reinforcing principles.

2.03 Student Achievement. The primary purpose of this Agreement is to improve student outcomes by allowing the District to partner with OP to operate the School as an independent campus subject to transparent accountability requirements, which are set by TEC Chapters 39 and 39A. The provisions of this Agreement shall be construed and applied to achieve this purpose.

2.04 Continuation of Agreement for the Benefit of Students. The Parties intend that this Agreement shall continue in effect and may be renewed for successive five (5) year terms in accordance with the provisions of Article IV.

ARTICLE III. DEFINED TERMS

3.01 School Campus. "School Campus" has the meaning assigned in the Texas Administrative Code Title 19, §97.1051 (3) and includes all components of the operation of the campus, including, without limitation, the grade levels served, the courses taught, the instructional materials, staffing, budgetary allocations, scheduling transportation, and other services and responsibilities associated with school operation.

3.02 Facilities. "Facilities" are defined as the building(s) located on the School Campus and related equipment, furnishings, and property improvements, including any athletic fields and related improvements, and the land on which the building(s) and related improvements are located as more fully defined in Article XIII.

3.03 Material Breach. A "Material Breach" of this Agreement shall include the failure of a Party to comply with or fulfill any material obligation, condition, term,

representation, warranty, provision, or covenant contained in this Agreement, including without limitation any failure by either to meet generally accepted fiscal management and government accounting principles, or comply with all Applicable Law under Paragraph 3.04.

3.04 Applicable Law. "Applicable Law" means all state and federal laws, rules, regulations, administrative and judicial determinations, and decisions that govern the performance of this Agreement, as they currently exist or as they may be adopted, amended, or issued during the Term of this Agreement as more fully described in sections 6.01 and 6.02

ARTICLE IV. TERM AND TERMINATION

4.01 Term. The term of this Agreement shall begin on the Renewal Date and end on June 30, 2028~~24~~. At the end of the Term, and if the Agreement has not been terminated, then the Parties may elect to renew this Agreement for another three (3) years with an automatic two (2) year renewal, so long as OP meets performance standards in Addendum A-3. Any such renewal shall be in writing. This Agreement is subject to the termination provisions detailed in this Agreement.

4.02 Notice of Non-Renewal. If this Agreement has not been terminated and the District anticipates opting to not-renew the Term of this Agreement, then no later than April 1, 2028~~of the last year of the applicable term~~, the District shall notify the OP in writing of its intent to not-renew this Agreement.

4.03 Termination Right to a Public Hearing. If the School successfully achieves the student outcome goals specified in Addendum A-3, attached, the District must hold a public hearing at least thirty (30) days prior to any District action to terminate the Agreement. If the School fails to achieve the student outcome goals specified in Addendum A-3, the District shall not extend this Agreement without a public hearing at least thirty (30) days prior to any District action to extend or renew this Agreement. This section is not applicable to termination related to material breach.

4.04 Termination by Mutual Consent. This Agreement may be terminated at any time by mutual written agreement of OP and the District if termination is effective no sooner than the end of the then current school year.

4.05 Termination for Cause. Either Party may terminate this Agreement if the other Party fails to remedy a Material Breach of this Agreement within sixty (60) days after written notice by the non-breaching Party of such Material Breach; provided, however, that if the breach would affect the safety or well-being of a student or is not reasonably capable of being cured, then no such notice and opportunity to cure shall be required.

4.06 Termination Related to Program Performance. The District may terminate this Agreement if the School does not comply with the program requirements of TEC §29.1532 and §29.154 and the student outcome goals specified in Addendum A-3. Termination under this paragraph shall be effective at the end of the then-current school year so long as written notice of such terminate is provided no later than

thirty (30) days after receipt of the Commissioner of Education's evaluation or the determination of student outcome goals.

4.07 Material Reduction in Per Student Funding. If there is a material reduction in per-student funding available from the State of Texas below the amount for the prior fiscal year, then the Parties shall meet no later than July 1 to determine whether to continue this Agreement. If the District and OP do not agree, then this Agreement shall terminate at the end of the current school year. "Material reduction" means a reduction of funding per student by more than five percent (5%) of current funding per student per half/full day, as applicable.

ARTICLE V. RELATIONSHIP OF THE PARTIES

5.01 Nature of Relationship. The relationship between the Parties hereto shall be that of contracting parties. OP shall operate as an independent contractor to the District and shall be responsible for delivering the services required by this Agreement. The relationship between and among the Parties was developed and entered into through arms-length negotiations and is based solely on the terms of this Agreement and such contracts and agreements as may be created in the future from time to time between the Parties and reduced to writing.

5.02 No Agency. Neither Party will be the agent of the other Party except to the extent otherwise specifically provided by this Agreement. Neither Party has the express nor implied authority to bind the other Party to any contractual duty other than what is specifically stated in this Agreement. Furthermore, both Parties shall represent to third parties and shall disclaim to such third parties, the extent of that Party's binding authority, which must be approved by the Parties' respective governing boards held in accordance with the Texas Open Meetings Act (appearing in minutes of such meeting) and as agreed to in writing by the Parties.

5.03 No Common Control. Neither Party is a division, subsidiary, affiliate, or any part of the other Party, nor has the right or authority to exercise any common control of any other Party. Nothing herein shall be construed to create a partnership or joint venture by or between the District and the OP.

5.04 Assurance of Independence. The OP and/or the School's governing body shall remain independent of the District. Both OP'S and the School's governing bodies are not and shall not be comprised of any members of the District's Board of Trustees, the Superintendent, or any staff member responsible for granting this Agreement.

ARTICLE VI. APPLICABLE LAWS

6.01 Compliance with Applicable Law. The Parties shall perform their respective obligations under this Agreement in compliance with Applicable Law. The Parties stipulate that Applicable Law includes, but is not limited to, Title VI of the Civil Rights Act of 1964, as amended; Title VII of the Civil Rights Act; Title IX of the Education Amendments of 1974; Section 504 of the Rehabilitation Act of 1973 ("Section 504"); the Age Discrimination Act of 1975; the Americans with Disabilities Act; the Individuals with Disabilities in Education Act ("IDEA"); the Family Educational Rights and Privacy Act of 1974 ("FERPA"); the Every Student Succeeds

Act to the extent specified in the Act; the Texas Education Code to the extent the School is not exempt; record retention laws and conflicts of interest laws under the Texas Local Government Code; the Texas Local Government Code, to the extent it applies to school districts; and any amendments, interpretations, and reauthorizations of the foregoing.

6.02 Scope of Applicable Law. The Parties agree that certain laws and regulations that apply to other schools within the District may not apply to the School or its operation as a consequence of the grant of a campus charter under Texas Education Code, Chapter 12. The Parties further agree that, except as provided in this Agreement, as identified in Addendum A-2, or required by Applicable Law, no provision, rule, or guideline of Texas law otherwise applicable to a governing body or school shall apply to the School or its operation.

6.03 Immunity. Nothing contained in this Agreement shall be read to waive the immunity granted by TEC Chapter 22, Subchapter B, and TEC Chapter 12, Subchapter C.

ARTICLE VII. GOVERNING POLICIES

7.01 Limitation on Authority. An educational or administrative service necessary for operation of the School, but not specifically reserved for the District to provide under this Agreement, shall be provided and solely managed by OP insofar as such delegation is permitted by state and federal law. A service is provided by OP if OP performs the service, contracts for its performance, or otherwise ensures and oversees provision of the service. Neither this paragraph nor this Agreement prohibits the District from contracting with another entity for the provision of services for the campus. Any and all services contracted for or performed for the School must be made in accordance with the responsibilities detailed in this Agreement.

7.02 Policy Election. OP shall operate in accordance with the District's Charter Policy specified in Addendum A-1 and other policies specified in Addendum A-2, as they currently exist or as they may be amended, so long as any such amendment does not constitute a Material Breach of this Agreement. If both Parties agree that an amendment amounts to a Material Breach, then the Parties may agree to operate under a prior (non-amended) policy so long as the prior policy is in compliance with the then-current Applicable Laws.

7.03 Adoption and Publication of School Policies. OP'S Board of Directors shall research, draft, and adopt policies addressing matters not specified in Addendum A-2, attached to this Agreement, at a meeting open to the public. OP shall have the final decision in adopting policies applicable to the School, other than the policies specified in Addendum A-2. All policies adopted by OP shall comply with Applicable Law. OP shall also provide drafts of proposed policies or proposed amendments to policies currently in effect to the District for review and comment no later than 30 days prior to the meeting at which the policies are to be considered for adoption or amendment. OP will publish adopted policies and District Board Policies applicable by law or by election under this Agreement on the School's website.

7.04 Future Waivers and Exemptions. Pursuant to 19 TAC§ 97.1075(d)(6), the School is exempt from laws and rules to the fullest extent allowed by TEC Chapter 12,

Subchapter C, and is exempt from all District policies except for laws, rules, and policies that are specifically identified as applicable to the School in this Agreement and/or incorporated by reference herein. The Parties will collaborate in applying for waivers from any restrictions imposed by Applicable Law when it is jointly determined that such waiver would expand opportunities for students enrolled in the School. If the District is relieved from compliance from certain state or federal law or regulation through a waiver, adoption, or amendment of a local innovation plan under Chapter 12A, Texas Education Code, the School is automatically relieved from compliance regardless of whether such relief is addressed in this Agreement. Further, if a waiver from a local policy, procedure, protocol, or other requirement is granted to another school in the District that serves students at the same grade levels offered at the School, and the policy is not waived by this Agreement, the waiver applies to the School unless the District notifies the School otherwise in writing within 60 days of the waiver's application to the other school(s).

ARTICLE VIII. PERFORMANCE REQUIREMENTS

8.01 Student Outcome Goals. The primary responsibility of OP under this Agreement is to ensure that the annual student outcome goals specified in Addendum A-3, or as amended, are achieved. Prekindergarten performance objectives may be based on TEC Chapter 39, Subchapter B, TEC §29.154, (which includes, but is not to be limited to, diagnostic reading and the number of kindergarten students who were enrolled in the School's prekindergarten program in the previous school year), TEC Chapter 29, Subchapter E and/or 19 TAC §102.1003 (c), (d) (which lists the Texas Prekindergarten Guidelines). Student outcome goals shall be evaluated as to their developmental appropriateness.

8.02 Performance Measurement, Methods, and Timeline. The Parties agree that achievement of annual student academic and financial performance targets agreed upon by the Parties and specified in Addendum A-3 will be determined using the methods, indicators, and timelines specified in that Addendum.

8.03 Performance Consequences. The Parties agree to specific consequences described in Addendum A-3 in the event that the OP does or does not meet the annual academic or financial performance expectations and goals described in Addendums A-3.

8.04 Responsibilities of OP Governing Board. The governing board of OP agrees that it is responsible for ensuring that OP achieves performance goals specified in Addendum A-3 and is obligated to oversee management of the School and intervene as required to ensure that performance goals are achieved.

8.05 Monitoring Performance. The District shall retain the right to monitor the performance of the School and OP under Addendum A-3.

ARTICLE IX. RESPONSIBILITIES

9.01 OP Responsibilities. The OP shall have the sole authority over matters involving academic curriculum and the instructional program (except for Special Education as detailed in Paragraph 9.02.2 below). OP shall have sole authority to hire or terminate OP's employees. OP must employ at least one employee at the School.

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9.01.1 Administration. Any Campus Chief Operating Officer, Principal, Assistant Principal, or other employee designated as an administrator at the School shall be employed and managed by OP.

9.01.2 Teaching Staff. Any teachers, teaching assistants, paraprofessionals, curriculum specialists, program coordinators, or other academic instructional employee at the School shall be employed and managed by OP.

9.01.3 Miscellaneous Instructors. Guidance counselors, librarians, extracurricular activity instructors, physical education instructors, and any other employee directly involved in overseeing/creating academic curriculum shall be employed and managed by OP.

9.01.4 Perimeter Lawn Area and Playgrounds. OP shall maintain and repair only the School Campus' immediate perimeter of the building and the two smaller playgrounds located on the School Campus. Upon seeking written approval from the District, OP may decide to enhance the School's playgrounds with an addition and shall be responsible for funding any addition. The District shall give reasonable and timely written approval for any such addition.

9.01.5 Landscaping. OP shall provide any necessary or desired landscaping for the School. Any changes to the current landscaping are subject to receiving written approval from the District. The District shall give reasonable and timely written approval for any such addition.

9.01.6 Signage. OP shall maintain the School's signage. Subject to written approval from the District, OP may change or add to the School's signage at OP's expense. The District shall give reasonable and timely written approval for any such addition.

9.01.7 Building Operations. Subject to written approval from the District, OP shall be able to alter the operations rooms within the School. For example, OP shall be able to make an existing office a classroom and vice versa. The District shall give reasonable and timely written approval for any such addition.

9.01.8 Substitute Teachers. OP shall provide substitute teachers to the School as necessary.

9.01.9 Health. OP shall employ the School's nurse and/or any other health care provider located on the School.

9.01.10 Bilingual Support and Assessment. Pursuant to TEC § 12.056(b)(E). OP shall comply with TEC, Subchapter B, Chapter 29, and any bilingual support and assessment requirements (e.g., the Home Language Survey) that the District must comply with relating to the identification of bilingual speakers and shall select any necessary or desired bilingual support and assessment assistance needed at the School.

9.01.11 Miscellaneous. Except as provided for in section 9.02.2, any registrar, secretaries, accounting staff, purchasing staff, human resources staff, or other administrative support staff at the school shall be employed and managed by OP.

9.01.12 Employees. OP has initial, final and sole authority to approve the assignment of all district employees or contractors to the School, as well as initial and final authority to rescind the assignment of any district employee or district contractor from the School. This authority includes assignment of employees, and evaluation and development of instructional skills. OP will cooperate with the District in its evaluation, development, advancement, compensation, continuation, and establishment of any other terms of employment, including assistance in the District's formal evaluation process. If OP removes any District employee or District contractor, then the OP shall provide any accompanying documentation, if available, to support the removal and the District will grant any requests within twenty (20) business days of receiving the request from the OP.

9.01.13 Special Education. OP shall provide special education services with support from the District as outlined in section 9.02.8. OP agrees to comply with best practices for Special Education instruction in compliance with guidance from the DOE and TEA. OP shall identify and participate in evaluation of students in need of special education in cooperation with the District and shall provide instruction to qualifying students, which shall comply with the student's Individualized Education Program (IEP). Should OP and the District determine OP is not able to provide instruction and services in accordance with the student's IEP, the District will provide Special Education instruction and services at the School for students enrolled at GISD, as mutually agreed by the parties.

9.02 District Responsibilities. The District shall maintain control of and shall be responsible for some ~~non-academic~~ non-academic and non-curriculum staff and personnel, which includes but is not limited to the below. The amount the District retains for these services may not exceed the District average cost per student for similar services rendered.

9.02.1 Maintenance. Subject to 9.01 above, the District shall maintain the School Campus and Facilities by overseeing and contracting for the maintenance of the campus via necessary repair work. Subject to 9.01 above, the District shall also be responsible for any improvements it deems necessary or desires to add to the School. The District shall maintain the remainder of the School Campus (that OP is not maintaining as detailed in ~~9.0149.01.4~~), which includes the large open field at the eastern end of the property. The District shall also provide regular pest control services. Notwithstanding the foregoing, the District shall maintain the School Campus and Facilities in a timely and effective manner and in a manner that is consistent with the level of service provided to the District's other campuses and facilities.

9.02.2 Record Keeping. The District shall appoint and employ the District central administration personnel responsible for maintaining necessary records, which shall include, but not be limited to, student attendance, and State and Federal funds accounting. The District shall undertake to ensure that OP has access to any and all information that allows OP to monitor the progress of its PreK4 graduates during their time in the District.

9.02.3 Food Services. Pursuant to this Agreement, the District shall provide food and cafeteria services to the School for pre-k students in accordance with the District's standard food service calendar, including summer feeding programs. This Agreement shall have no impact on ancillary agreement with OP regarding the feeding of infants and toddlers year-round or prek students on non-instructional days in accordance with *the Contract for GISD Child Nutrition to Provide Meals for Moody Early Childhood Center 2020-2021* and marked Addendum A-8 or any other similar agreement.

9.02.4 Utilities. The District shall provide the utilities and an alarm system for the School.

9.02.5 Security. The District shall provide security monitoring of the facilities, as well as will send emergency personnel as needed

9.02.6 Transportation. The District shall provide all necessary transportation to and from the School. Additional routes and transportation needs outside of the regular transportation route will be billed at a rate outlined in the district menu of services.

9.02.7 Special Education. The District and OP will share responsibility in identifying students to be evaluated for special education eligibility. The District will timely evaluate students to determine eligibility and develop IEPs for students determined eligible with information and participation from OP staff. The District shall provide OP with reasonable advance written notice if the District is unable to complete student evaluations within the statutorily required timeline, and OP may elect to complete a separate evaluation of the student at its ~~own~~ expense. That evaluation and the IEP that is developed from that evaluation will be accepted by the District.

OP and the District shall comply with State and Federal laws, including but not limited to the IDEA, Section 504, and any statutorily mandated timelines. OP shall be responsible for compliance with student IEPs. Should OP be unable to provide the instruction or related services necessary to adequately implement a student's IEP, the District will provide OP access to District employees and/or vendors, at the District's discretion, to implement the student's IEP. Any funding attendant to Special Education services provided by the District will be retained by the District. Any funding attendant to Special Education services provided by OP will be forwarded to the OP by the District. This Paragraph also applies to infants and toddlers under 20 U.S.C. § 1431, which allows for the District to enhance development of infants and toddlers with disabilities to

minimize their potential for developmental delay, and to recognize the significant brain development that occurs during a child's first three (3) years of life. The parties agree to designate a representative from each entity to meet and review data and expectations regarding special education services on a quarterly basis.

9.02. Technology. OP will continue to have access to all devices and technology currently allocated to the School. Should OP determine it needs additional technology, the District will provide the technology pursuant to Section 14.02 and the Menu of Services. Any devices, laptops, or desktop computers provided to OP will include the District's standard load set as well as any other supporting software identified and purchased by OP through the District.

ARTICLE X. SCHOOL OPERATIONS

10.01 OP's Governing Board. OP represents that a true and accurate list of its current directors ("Directors") is attached to this Agreement as Addendum A-6. If there is any change to the Directors during the Term of this Agreement, OP shall provide written notice to the District of the change within 30 days. No District Board of Trustees member, Superintendent, or any staff member responsible for granting this Agreement shall be appointed to OP'S Governing Board. District staff may not compromise a majority of OP'S Governing Board.

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10.02 Budgetary Authority of OP. OP has initial, final and sole authority to approve or amend the budget for the School.

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10.03 Campus Chief Operating Officer ("COO"). The Executive Director of the School shall be the COO, who shall be selected and managed by the OP. The COO shall oversee the School's day-to-day operations. The COO shall be assigned to record, prepare, disseminate, and maintain meeting minutes. The School's overall educational framework, mission, budgetary approval, and policies shall be developed and adopted by OP with input from the OP's Board of Directors. The School shall be subject to the direction, control, policies, practices, and procedures of the COO, subject to the requirements of this Agreement and input from the OP's Board of Directors. The COO shall ensure that the curriculum meets the requirements of state law, subject to the academic program review and input from the OP's Board of Directors.

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10.03.1 Director of Education/Principal. If OP elects to employ a Director of Education/Principal of the School, the employee shall be the Director of Education /Principal, who shall be subject to the control of the COO but may be required to report to and attend Board of Directors meetings, if requested.

10.03.2 OP Employee. OP shall hire and manage at least one employee at the School, which may be, but is not limited to, the COO.

10.04 Grade Levels. Unless agreed otherwise in writing by the Superintendent and COO, the School will serve infants, toddlers, and Prekindergarten students. The District retains the authority to open the School to additional grade levels or programs, with the written consent of OP. All PreK3 students, with the exception of

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students educated in the self-contained ECSE program or those attending Crenshaw on Bolivar Peninsula, will be served at the School, unless the student's ARDC determines placement outside the School is necessary in accordance with section 9.02.8. PreK4 students who attended the School as infants and/or toddlers and/or as PreK3 students, may elect to enroll in PreK4 at the School. OP shall not change the grade levels previously served at the School without the District's written consent.

10.056 Enrollment Policies. Prekindergarten students who meet the requirements of TEC §29.153 shall be eligible for free enrollment at the School. Prekindergarten students who do not meet the requirements of TEC §29.153, shall be eligible for enrollment at the School under TEC §29.1531. The Parties will collaborate and agree on a process for enrollment of students into the School, which may include an application. In addition to the agreed-upon admission policies, the following applies:

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10.056.1 OP is prohibited from discriminatory admission, suspension, or expulsion of a student on the basis of a student's national origin, ethnicity, race, religion, disability, gender, or academic achievement.

10.056.2 Subject to Paragraph 10.07, OP shall give preference for admission to students who were previously enrolled at the School.

10.067 Discipline and Expulsion Policies. Subject to TEC §37.005(c), §37.007(h), OP shall comply with the District's discipline policies. OP understands that TEC§37.005(c), §37.007(h) limits suspension and expulsion of prekindergarten students.

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10.078 Schedule. OP will have sole authority in determining the school day, school year, bell schedule, schedule for before and after-school services and for extra-curricular activities. OP's schedule shall comply with the State of Texas' required minutes of instruction. OP agrees to provide this information to the District no later than 45 days before start of school and to confer with the District prior to altering.

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10.089 District Meetings, Initiatives, and Training. School staff under the supervision and control of OP will not be required to participate in District training events or other meetings unless directed by OP. OP agrees that all School staff shall comply with and receive training required by Applicable Law.

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10.094 Contractor Criminal History Background Checks. The District shall conduct criminal history background checks for all vendors and contractors selected by the District as well as for all District employees. OP shall conduct criminal history background checks for all vendors and contractors selected by OP as well as for all OP employees, or OP may contract with the District for such checks. The District and OP shall adhere to reporting requirements, definitions, and laws further detailed in Paragraph 11.03.

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10.104 Technology Infrastructure: Network Services. The District shall be responsible for providing, repairing, and maintaining technology infrastructure and network services at the School. The District shall furnish equitable technology equipment to that of the other schools in the district to OP to ensure consistency between the standard equipment and the needs of the School. The District shall

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also provide proper "cyber" insurance and antivirus to protect OP's data & personnel information. OP shall provide the District with a list of equipment purchased and collaborate with the District to ensure consistency between the standard equipment and the needs of the School. The initial information technology equipment located at the School as of the commencement of the Term is included in the term "furnishing."

10.11 Media Requests. The Parties agree to collaborate on responses to any media requests or press releases related to the School. The Parties shall collaborate prior to responding to any media request or making a press release and further agree that any statement made will have prior approval by each Party, which shall be reasonably and timely granted. This requirement does not apply to general communications regarding OP or the District that may include references to the School. OP agrees to comply with all Applicable Law and District policies related to photographs, audio, or video recordings of students.

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10.12 Communications with Students' Parents. The District shall notify the OP of any communication to be shared with students' parents. OP will distribute the same communication released by the District through electronic media and/or notes home. In the event of a campus emergency, OP will alert the District for information to be distributed as needed. ~~This communication is working pretty well, but on the list of subjects to be discussed is the communication from the District to the OP.~~

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10.13 Communication between OP and District. The District will provide the OP with any and all communications that are circulated to other District campuses and departments that are relevant to the PreK program at the OP campus. Conversely, the OP will provide the District with any and all communication relevant to aspects of the OP's operation which relate to or impact the District.

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10.14 Child-Care Licensing. OP is responsible for ensuring that the School meets at least the minimum requirement to comply with applicable child-care licensing standards adopted by the Department of Protective and Regulatory Services under Human Resources Code §42.042. OP shall bear the financial cost of ensuring compliance with the same.

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ARTICLE XI. STAFFING

11.01 Employment. Except as otherwise provided herein, all personnel and staff of the ~~School School~~, including, but not limited to, the ~~School Leader~~ Executive Director, other administrators, teachers, and teaching assistants, are employees of OP and not of District. The Parties acknowledge and understand that employees of OP are not subject to District personnel policies and that OP has sole authority over hiring, assignment, evaluation, development, advancement, compensation, continuation, other terms of employment with respect to School staff.

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11.02 Criminal History Background Checks. Unless contracted for by the District as stated in Paragraph 10.10, OP shall perform all criminal history background checks required by Applicable Law, including without limitation those required for School personnel, applicants, vendors, contractors, and volunteers and shall take action required by law upon completing the background check. OP and the School's employees shall adhere to the laws in Senate Bill 7 in the 85th Texas Legislature and

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codified in TEC §21.006 and §22.087 and shall adhere to any District policies relating to TEC §21.006 and §22.087. OP shall notify the District of any unlawful conduct or criminal misconduct discovered by or reported to the School's ~~principal, School's COO, or School's Board of Directors~~ administration within seven (7) business days of notice. OP shall comply with any subsequent investigation by the District as OP understands that the District is bound by the reporting requirements of TEC §21.006 and §22.087. Additionally, OP also understands that the District's Superintendent may investigate and report any educator misconduct that he or she believes in good faith may be subject to sanctions under 19 Administrative Code, Chapter 249 and/or Chapter 247, Educators' Code of Ethics. OP's failure to comply with this paragraph's reporting requirements shall amount to a Material Breach of this Agreement.

11.03 Child Abuse Reporting. All District and OP employees working at the School shall comply with all Applicable Law governing mandatory child abuse and neglect reporting, including but not limited to the Texas Family Code Chapter 261, TEC §38.004, §38.0041, and the Texas Administrative Code §61.1051.

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11.04 Certified Personnel. The District's personnel assigned to the School shall be certified for the position for which they are assigned unless OP selects a District employee who is not certified for an assignment, and the District agrees to the assignment. OP may directly employ an uncertified person for an assignment.

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11.05 Employment Records. OP is responsible for maintaining the employment records for all School Personnel (both District employees and OP employees). The employment records of District employees are the property of the District and OP shall make these employment records available to the District. All employment records of OP employees only are the property of OP.

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11.06 Employee Complaints and Grievances. The Parties agree that the District's employees' complaints and grievances will be governed by the District's policies and OP's employees' complaints and grievances will be governed by OP's policies.

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11.07 Non-Solicitation. OP agrees it will not solicit or hire any District employees unless and until it receives written confirmation from the District that the employee has been released from any contractual obligations with the District. The District agrees it will not solicit or hire any employee of OP unless it receives written confirmation from OP that the employee has been released from any contractual obligation with OP. Nothing in this Agreement alters the nature of OP employees or changes the employment relationship between any employee and his/her employer.

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11.08 Teacher Retirement System. An employee of the OP is eligible for membership in and benefits from the Teacher Retirement System of Texas if the employee would be eligible for membership and benefits if holding the same position at any Texas public school.

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11.09 Nepotism Restrictions. The School shall comply with all nepotism restrictions as more fully described in Addendum A-7, including its attachment, both of which are attached to this Agreement. All persons employed by School prior

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to the effective date of this Agreement will be considered grandfathered in and exempt from nepotism restrictions.

ARTICLE XII. ACADEMIC PLAN

12.01 Curriculum and Program. OP will have initial, final and sole authority to approve all curriculum decisions beyond the minimum requirements in TEC §29.1532 (relating to Prekindergarten Program Requirements), lesson plans, instructional strategies, and instructional materials, as defined in TEC §31.002(1), to be used at that campus. This authority includes sole authority over educational programs for specific, identified student groups, such as gifted and talented students, students of limited English proficiency, special education students, students at risk of dropping out of school, and other statutorily defined populations.

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12.02 Educational Plan. OP will implement the education plan described in its proposal to operate the School, attached as Addendum A-3. OP will ensure that curriculum satisfies the minimum requirements outlined in TEC §29.1532. OP agrees to notify the District of any significant alteration of this plan.

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12.03 Selection of Instructional Materials. OP has sole authority to select instructional materials (as defined in TEC §31.002(1)) for the School and any other standards that may be required under Applicable Law.

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12.04 Assessments. OP has sole authority over the selection and administration of student assessments not required by state or federal law.

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12.05 Student Behavior. Students enrolled at the School will be required to follow the District's Code of Student Conduct. OP reserves the right to develop its own Code of Student Conduct. OP agrees that it will not modify expulsion provisions without consent of the District and agrees to notify the District of any other modification in writing at least 60 days in advance of implementation. OP agrees that a student shall not be suspended or expelled from the School for attendance or academic performance reasons.

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12.06 Due Process. OP will cooperate with the District to ensure that due process is afforded with respect to student removals and expulsions.

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ARTICLE XIII. FACILITIES

13.01 Facilities. The District shall provide facilities, in the form of classrooms, office furniture, equipment, and storage areas for the School at the cost detailed in Article XIV. The parties may expand or reduce the amount of space allotted to use by OP during the term as mutually determined and agreed upon by the parties. Facilities do not include classroom materials (e.g., books, notepads, pencils, etc.) or any other resources needed for the School's academic curriculum.

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13.02 Ownership. The Parties acknowledge that all Facilities are owned by the District.

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13.03 Permitted Use. Beginning on August 1, 2018 ("Possession Date"), and during the Term of this Agreement, OP may use and occupy the Facilities solely for the operation of the School as permitted by this Agreement and Applicable Law. To the

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extent OP wishes to use the Facilities for educational activities, separate from the School but associated with its educational purposes, OP must seek approval from the District, and such approval shall not be unreasonably denied but any costs for such facility use shall be reimbursed to the District by OP. Any use of the Facilities by any other individual, group, or organization shall be governed by the District's facilities use policies. Prior to the Possession Date, the District may provide OP access to certain District facilities as requested by OP in order to allow OP to conduct job fairs, assess facilities, and take other reasonable steps necessary to prepare for the implementation of this Agreement.

13.03.1 Year-Round Programming for Infants and Toddlers and Programming for PreK Students Outside the Standard School Year. The District consents to OP's use of the Facility for infants and toddlers year-round and prek students during non-school days, hereinafter referred to as the "Day-Care Program." OP must comply with all terms of this Agreement that relate to facilities during all periods of use, including during operation of the Day Care Program. OP EXPRESSLY AGREES TO INDEMNIFY AND HOLD HARMLESS THE DISTRICT in accordance with section 18.01 of this Agreement for any and all claims that may result from the operation of the Day Care Program. OP is solely responsible for ensuring compliance with any and all Texas Child Care Licensing Requirements to operate the Day Care Program in the facility in accordance with Section 10.14.

13.04 Furniture and Equipment for Classrooms and Instructional Areas. In consultation with OP regarding the furniture and equipment needs of the OP classrooms, the District, for the term of this agreement, will supply existing chairs, desks, bookcases, bookshelves, file cabinets, computer tables, conference tables, and other furniture as reasonably required for the School. Such furniture and equipment will be substantially the same as furniture and equipment provided in other classrooms for the same grade level and/or same subject at the District. Such furniture and equipment do not include classroom materials (e.g., books, notepads, pencils, etc.) or any other resources needed for the School's academic curriculum. OP also may furnish other furniture, fixtures, and equipment, at OP's cost and expense, as OP determines what is needed to implement the Program. The title to all furniture and equipment supplied by the District for use by OP remains vested in the District. The title to all furniture and equipment purchased with federal, state, or local funds for use by OP at the School remains vested in the District. The title to all furniture and equipment provided by OP with funds other than funds received from this Agreement remains vested in OP. OP and the District shall tag and identify their respective property so that ownership is clear. Each Party shall maintain an inventory list of all of its assets ["assets" will be defined as an equipment with value >\$1,000 located at the School].

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13.05 Fixtures and Alterations. OP may attach non-permanent materials and fixtures to the walls of the School's classrooms but may not make any other alterations (including adding/removing fixtures) in or to the School's classrooms or any other part of the District's facilities used by OP that would alter the walls, floors, or any other permanent structure of the District's premises without written consent of the District.

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13.06 Order and Maintenance. Subject to Paragraph 9.02.1, OP shall keep the School classrooms and any other portion of the District's premises, such as office space and storage area used exclusively for OP in a neat and orderly manner. Both Parties

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shall comply with the Applicable Laws regarding standards of safety and health of students. The District shall be responsible for routine maintenance, ~~and~~ major repairs and upgrades of the School including, ~~upgrades~~, HVAC-AC equipment, fire alarm and suppression system, roof repairs, ~~and~~ parking lot and any repairs or alterations necessary to maintain the safety and security of the campus. The District shall maintain all other portions of the School in a neat and orderly manner. OP shall immediately (no later than 12 hours of discovery) notify the District of any immediate and urgent repairs needed at the School.

13.07 Insurance Coverage. In addition to the requirements of Article XV below, each Party, at its own expense, shall maintain its own insurance throughout the Term of this Agreement. The insurance required under this Agreement shall be bound to the following:

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13.07.1 Comprehensive or Commercial General Liability Insurance. Comprehensive or commercial general liability insurance for not less than \$1,000,000 (combined single limit for bodily injury and property damage per occurrence and in the aggregate). Each Party may elect to carry what other insurance that Party decides is necessary or advisable for its obligations under this Agreement. Such insurance shall be written to cover claims incurred, discovered, manifested, or made during or after the Term:

- i) Automobile insurance to cover losses for motor vehicles accidents by that Party; and ii) Workers Compensation insurance as may be required by Applicable Law for that Party.

13.07.2 Property Insurance. The District shall obtain and maintain property insurance for the School as it deems necessary and advisable to carry. Each Party may elect to carry insurance to insure its own personal property located at the School. The District shall have no obligation to replace, repair, or compensate OP for any loss affecting OP'S property, trade fixtures, furniture, equipment, playgrounds which OP is responsible for under Paragraph 9.01.4, or other installations or for any physical or personal injuries, losses, or damages to or sustained by OP, its agents, invitees, OP'S improvements, equipment, or personal property.

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13.07.3 Negligence. Neither Party will be responsible for the negligence or liability of the other Party.

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13.08 Disaster Preparedness. District shall be responsible for preparing the building for a possible natural disaster. OP shall be responsible for preparing the playgrounds and interior furniture and equipment for a possible natural disaster. The District will inform the OP of timing and level of preparedness it expects to undertake. District will inform the OP of timing of return to the campus following a natural disaster.

13.09 Surrender of the Facilities. On the termination of this Agreement, OP shall leave the Facilities in good condition and repair. OP shall return and surrender to the District all exterior door keys, interior door keys, mailbox keys, security access cards,

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and improvements that were provided to OP by the District. The obligations under this Section shall survive the termination of this Agreement.

ARTICLE XIV. FINANCIAL MATTERS

14.01 Payment Sources & Structure. The Parties understand that this Agreement allows for OP to receive the District's usual funds from the State's Foundation School Program ("FSP Funds") that all eligible students within the District receive and to receive SB 1882 funds ("SB 1882 Funds"), if awarded, for those eligible students due to this partnership Agreement as described in this Article. For purposes of this Agreement, FSP funds are based primarily on the weighted average-daily-attendance ("WADA") allocation received by the District under TEC Chapter 42, Tiers I and II for eligible students enrolled in the District and in actual attendance at the School.

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14.01.1 Federal Funds and Instructional Materials Allotment. Federal funds and Instructional Materials Allotment attributable to the School shall not be included in the FSP Funds calculation and shall be retained by the District and utilized at the District's discretion in accordance with law and policy.

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14.02 Menu of Services. The District may annually publish a service menu and price list for educational and support services other than or in addition to what the District is required to provide under this Agreement. If the District opts to publish a service menu and price list, the District must do so no later than April 1 for the following school year. Such services may include, but are not limited to, professional development; participation of School students in extracurricular activities; transportation for field trips; and transportation or food services needed on days in which the District is not operating. Prices will be stated in a per-pupil, per-square foot, or per-day/hour basis format. Prices will be the at-cost prices for District schools. Should OP utilize a service on the menu, the District will reduce OP's monthly payment pursuant to Section 14.05 for the services provided in the month following performance of the service. The District's service menu and price list is attached to this Agreement as Addendum A-5b.

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14.03 Operational Expenses. Operational services are outlined in Worksheet C and D of Addendum A-52. OP may not elect out of operational services in Worksheet C and D, unless the parties agree to an amendment in writing.

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14.04 Determination of Per Pupil Funding Allocation. Subject to section 14.04.1, in consideration of the services provided under this Agreement, the District shall pay OP for each school year of the Term, an amount equal to \$7,032.00 for each student in Average Daily Attendance (ADA) at the School with a monthly offset as defined in Sections 14.02 above. The annual amount set forth in this Section shall be referred to herein as "the Fee." Other than the Fee paid to the OP under this Section and the grants awarded for the School under Section 14.08, the District shall retain all ~~state~~, federal ~~and local~~ funds earned or received on behalf of each student at the School to pay for the activities and services provided by the District under this Agreement.

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14.04.1 Funding Updates. The District may annually update the figures in Addendum A-5a to reflect actual expenses for the upcoming school year. The District will provide OP notice of any impact the amendments will have on the Fee no later than July 1 of each year during the term of this Agreement. Should the amendment result in an increase or decrease of the Fee of more than five percent, either party may terminate this agreement by written notice no later than July 15.

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14.05. Distribution of Funding Allocation. Payments of the funding allocation set forth above shall be made in monthly installments on the 15th day of each month during the Term, commencing on September 15, 2021, based on enrollment of 126. On or before September 30 beginning with the second year of the Term, the estimated figures in 14.05.1 will be adjusted to actual figures, revenue, and expenses, as applicable, for purposes of determining the compensation hereunder and any amounts owed by either Party according to a mutually agreed upon settle-up process. In the event that the 15th shall fall on a Saturday or Sunday, payment shall be made on the following Monday.

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14.05.1 Estimate Figures Adjusted to Actual in Settle-Up:

- A. Average Daily Attendance
- B. Funding generated per student in accordance with the Region 13 Summary of Finance Template
- C. Campus Specific Expenses in Worksheet C of Addendum A-5a

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14.06 Limitations. Payment shall be issued contingent on current Average Daily Attendance ("ADA") and Full Time Equivalent ("FTE") records (as applicable). In no case shall the District be obligated to pay any amount for students not included in the District's eligible ADA count to the Texas Education Agency. Notwithstanding any terms herein to the contrary, the District's obligation to compensate OP is expressly subject to the receipt, adjustment, or modification of funds by the District from the State of Texas specifically allocated for those eligible students in attendance at OP. In the event that such funding is not received or reduced, the District shall not be obligated to OP in any amount, and OP may terminate this Agreement, and any prior payments made by the District shall be retained by OP in consideration of and as payment for educational services provided up to the date of such termination. This paragraph shall not be construed to relieve the District of any responsibility or obligation to OP if the District fails to receive funding as a result of a failure by the District or its agents or contractors to fulfill requirements necessary for securing funding from the State of Texas. The parties agree that this agreement is not contingent upon approval of benefits under Texas Education Code section 11.174(a)(2).

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14.07 Refund upon Termination. In the event of termination during the Term of this Agreement, OP agrees to refund to the District within ninety (90) days of the date of termination, all advanced but unearned funds.

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14.08 Federal and State Grants. In addition to the funding described above, OP may also be eligible for Federal entitlement grants, such as Title I, as approved by the Federal granting agencies and the State. Such finding must be spent as approved and designated by Federal and State agencies. OP admits knowledge of and agrees that the District's obligation hereunder for payment of Federal and/or State grants is limited to and expressly subject to receipt of any funds from the Texas Education Agency. In the event the District is ever required to refund any funds received from TEA specifically designated for any Federal or State grant program, then it is understood and agreed that OP shall be liable for and shall refund such amounts received. If OP obtains a federal or state grant specifically for the School and for a cost originally assigned to the District, OP shall use the grant money for the cost and the District shall not pay for the cost. This section specifically excludes any and all funds received pursuant to the Elementary and Secondary Emergency Relief Fund and the District shall allocate any one-time grant funds received in its sole discretion and in accordance with the Notice of Grant Award.

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14.09 Contracting, Purchasing and Procurement. OP may establish school-level systems for obtaining, contracting with, and paying its vendors for goods it acquires and services it provides under this Agreement. OP will ensure compliance with applicable state and federal contracting and payment laws. OP reserves the right to contract for any services it deems beneficial in operation of the School.

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14.10 Accounting and Audits. OP shall comply with generally accepted fiscal management and accounting principles. The Parties shall comply with the financial performance goals detailed in Addendum A-3, which shall include, but is not limited to a completion of OP's annual financial report, receipt of an unqualified audit opinion, and specific consequences in the event that OP does not meet the financial performance goals. In addition to any audits required by Applicable Law, OP shall submit to the District within 180 days following the end of each fiscal year starting with the 2nd completed fiscal year, financial statements audited by an independent certified public accountant. The OP will provide the District with the financial audit from the first Fiscal Year of this Agreement but will not include any Federal Funding, so the 180-day timeline does not apply. The District shall also retain the right to conduct its own campus audit of the School and annual audit of OP as it deems necessary. OP agrees to comply with all rules, regulations, ordinances, statutes, and other laws, whether local, state or federal, including, but not limited to, all audit and other requirements of the Single Audit Act of 1984. In the event an audit occurs and any expenditures relating to this Agreement are disallowed, OP agrees to reimburse the District immediately for the requisite full amount.

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ARTICLE XV. RECORDS AND REPORTING

15.01 Records Management System. The District shall maintain a records management system that conforms to the system required of school district under the Local Government Records Act, Section 201.001 et seq., Local Government Code, and rules adopted thereunder; provided, however, that records subject to audit shall be

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retained and available for audit for a period of not less than five (5) years from the latter of the date of termination or renewal of this Agreement.

15.02 State and Federal Reporting. OP shall report timely and accurate information to the District as necessary for the District to comply with all applicable state and federal requirements. OP shall report information in the manner requested by the District and correct any demonstrable errors as requested by the District, provided that the manner of reporting or correction requested is not unduly burdensome to OP.

15.03 Lawful Disclosure. To the extent that OP or the District will come into possession of student records and information, and to the extent that OP or the District will be involved in the survey, analysis, or evaluation of students incidental to this Agreement, both parties agree to comply with all requirements of the FERPA and the Texas Public Information Act. In the event that the District is required to furnish information or records of the School pursuant to the Texas Public Information Act, OP shall furnish such information and records to the District, and the District shall have the right to release such information and records. Either OP or the District may object to disclosure of information and records under FERPA or the Texas Public Information Act.

ARTICLE XVI. INTELLECTUAL PROPERTIES

16.01 Proprietary Materials. Each of the Parties shall own its own intellectual property including without limitation all trade secrets, know-how, proprietary data, documents, and written materials in any format. Any materials created exclusively by the District for the School shall be owned by the District, and any materials created exclusively by OP for the School shall be OP's proprietary material. The Parties acknowledge and agree that neither has any intellectual property interest nor claims in the other Party's proprietary materials. Notwithstanding the foregoing, materials and work product jointly created by the Parties shall be jointly owned by the Parties and may be used by the individual Party as may be agreed upon by both Parties from time to time.

16.02 Name. OP owns the intellectual property right and interest to the name "Moody Early Childhood Center." The Parties agree that the name "Moody Early Childhood Center" may be used by either Party during the Term of the Agreement. The Parties agree that after the expiration or termination of this Agreement, the District shall not use the name "Moody Early Childhood Center" for its own individual purposes.

ARTICLE XVII. INSURANCE

17.01 Insurance Coverage. OP shall secure and keep in force during the Term of this Agreement commercial general liability insurance coverage, including contractual coverage, automobile liability insurance coverage, and sexual misconduct and molestation coverage, with minimum liability limits of \$1 per occurrence, with a \$2,000,000 annual aggregate. The District is to be named as an additional insured under such coverage for any liability arising, directly or indirectly, under or in connection with this Agreement, or with regard to the operations of the School or any event arising therefrom. The District shall maintain casualty insurance on the Facilities and on its personal property and commercial general liability coverage

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applicable to any services it provides at the School, in substantially the same manner as it maintains such insurance with respect to other District schools. OP shall also maintain (a) broad form casualty coverage for all personal property located or used at the School, including the Furnishings, which coverage shall be on a full replacement value basis, and (b) worker's compensation insurance to the extent required by the laws of the State of Texas, any deductible or other similar obligation under OP's insurance policies shall be the sole obligation of OP and shall not exceed \$25,000. Notwithstanding the foregoing requirement regarding insurance coverage, the District shall have the right to self-insure part or all of said insurance coverage in the District's sole discretion. In the event that the District elects to self-insure all or any part of any risk that would be insured under the policies and limits described above, and an event occurs where insurance proceeds would have been available but for the election to self-insure, the District shall make funds available to the same extent that they would have been available had such insurance policy been carried.

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17.02 Form of Policies. All of the OP's insurance policies shall be issued by insurance companies qualified to operate in Texas and otherwise reasonably acceptable to the District. Such policies shall name the District, and such other related parties as the District elects, as additional insureds. Evidence of insurance shall be delivered to the District on or before the Possession Date, and thereafter within thirty (30) days prior to the expiration of the term of each such policy, or immediately upon OP's obtaining a new policy. Such coverage may be maintained under a blanket insurance policy of OP.

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17.03 Evidence of Insurance. Upon request, a Party will furnish a certificate of insurance to the other Party evidencing the required coverage within thirty (30) days after the Possession Date of this Agreement and annually thereafter. Each Party will provide to the other Party notice of any cancellation or material adverse change to such insurance within thirty (30) days of such occurrence.

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17.04 Cooperation. To the extent that it is reasonably practicable, each Party will comply with any information or reporting requirements required by any of the other Party's insurers.

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17.05 Insurance Companies. All insurance coverage described in this Article shall be obtained from companies that are authorized to do business in the State of Texas.

ARTICLE XVIII. INDEMNIFICATION

18.01 Indemnity Provision. OP agrees to comply with the following Indemnity Provision. OP covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the DISTRICT and the elected officials, employees, officers, directors, volunteers and representatives of the DISTRICT, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the DISTRICT directly or indirectly arising out of, resulting from or related to OP's activities under this AGREEMENT, including any acts or omissions of OP, any agent, officer, director,

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representative, employee, consultant or subcontractor of OP, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this AGREEMENT. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of the DISTRICT officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT OP AND THE DISTRICT ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE DISTRICT UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. The provisions of this INDEMNIFICATION are solely for the benefit of the Parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. OP shall advise the DISTRICT in writing within 24 hours of any claim or demand against the DISTRICT or OP known to OP related to or arising out of OP's activities under this AGREEMENT.

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ARTICLE XIX. SERVICE-LEVEL AGREEMENTS

19.01 District Authority. The District has sole decision-making authority regarding the delivery of any service related its responsibilities detailed in Paragraph 9.02. The District shall coordinate and cooperate with OP to determine dates of contracted service at the School and OP shall allow service contractors on School grounds absent any serious and legitimate complaints or concerns. OP shall inform the District of any service the District provides that is not complaint with Child Care Licensing requirements. The District understands that OP must comply with these licensing requirements and the District agrees to have its service vendors comply with the same and/or notify OP when the licensing requirements are too burdensome for the District and its vendor(s) to comply with. If the District is unable to have a specific vendor comply with the licensing requirements, then OP may select its own vendor for that specific service.

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ARTICLE XX. GENERAL AND MISCELLANEOUS

20.01 Entire Agreement. This Agreement, including all referenced attachments and terms incorporated by reference contains the entire agreement of the parties. All prior representations, understandings, and discussions are merged into, superseded by, and canceled by this contract.

20.02 Severability. The parties intend that each provision hereof constitute a separate agreement between or among them. Accordingly, the provisions hereof are severable and in the event that any provision of this Agreement shall be deemed invalid or unenforceable in any respect by a court of competent jurisdiction, the remaining provisions hereof will not be affected, but will, subject to the discretion of such court, remain in full force and effect, and any invalid or unenforceable provision will be deemed, without further action on the part of the parties, amended

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and limited to the extent necessary to render the same valid and enforceable and reflect the intent of the parties.

20.03 Waiver. No waiver of any provision of this Agreement will be effective unless in writing, nor will such waiver constitute a waiver of any other provision of this Agreement, nor will such waiver constitute a continuing waiver unless otherwise expressly stated.

20.04 Venue and Jurisdiction. OP and the District agree that this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the Parties created hereunder are performable in Galveston County, Texas. Any action or proceeding to enforce the terms of this Agreement or adjudicate any dispute arising out of this Agreement shall be brought in a court of competent jurisdiction in Galveston County or in the United States District Court for the Southern District of Texas, Galveston Division.

20.05 Governing Law. The laws of the State of Texas, without regard to its conflict of laws' provisions, will govern this Agreement, its construction, and the determination of any rights, duties, obligations, and remedies of the parties arising out of or relating to this Agreement.

20.06 Assignment. Except as otherwise provided in this Agreement, neither Party may assign or delegate any rights or obligations under this Agreement without the prior written consent of the other Party.

20.07 Successors and Assigns. This Agreement will be binding upon, and inure to the benefit of, the parties and their respective successors and permitted assigns.

20.08 Headings and Captions. The headings and captions appearing in this Agreement have been included only for convenience and shall not affect or be taken into account in the interpretation of this Agreement.

20.09 Competition. OP, its subsidiaries, and/or its related entities shall not fund or operate any educational institution in the District's Attendance Area during the Term of this Agreement.

20.10 Days. Any timeline in this Agreement referencing "days" shall mean calendar days.

20.11 Notice. Any notice or communication required or permitted hereunder shall be given in writing, sent by (a) personal delivery, or (b) expedited delivery service with proof of delivery, (c) United States mail, postage prepaid, registered, or certified mail, or (d) via facsimile, telegram or e-mail, address as follows:

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If to the OP:

Karin Miller, Executive Director
Moody Early Childhood Center
1110 21st Street
Galveston, Texas 77550
karin@moodychildhoodcenter.org

If to the District:

Dr. Jerry Gibson, Superintendent
Galveston Independent School District
JerryGibson@gisd.org
3904 Avenue T
Galveston, Texas 77550

Student Outcomes Performance Measure Galveston ISD / Moody Early Childhood Center (Addendum A-3)

Academic Goal #2b	2021-2022		2022-2023		2022-2023		2023-2024		2024-2025	
Phonological Awareness Composite results	Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range	
	PK3	PK4	PK3	PK4	PK3	PK4	PK3	PK4	PK3	PK4
Percent of indicators met at EOY: <69% Still Developing 70-79% Satisfactory Progress 80-89% Making Progress 90-100% Mastered										

Student Outcomes Performance Measure Galveston ISD / Moody Early Childhood Center (Addendum A-3)

Academic Goal #2c	2021-2022		2022-2023		2022-2023		2023-2024		2024-2025	
Book and Print Knowledge	Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range	
	PK3	PK4	PK3	PK4	PK3	PK4	PK3	PK4	PK3	PK4
Percent of indicators met at EOY: <69% Still Developing 70-79% Satisfactory Progress 80-89% Making Progress 90-100% Mastered										

Student Outcomes Performance Measure Galveston ISD / Moody Early Childhood Center (Addendum A-3)

Academic Goal #2d	2021-2022		2022-2023		2022-2023		2023-2024		2024-2025	
Rapid Letter Naming	Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range	
	PK3	PK4	PK3	PK4	PK3	PK4	PK3	PK4	PK3	PK4
Percent of indicators met at EOY: <69% Still Developing 70-79% Satisfactory Progress 80-89% Making Progress 90-100% Mastered										

Student Outcomes Performance Measure Galveston ISD / Moody Early Childhood Center (Addendum A-3)

Academic Goal #2e	2021-2022		2022-2023		2022-2023		2023-2024		2024-2025	
Early Writing Skills	Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range	
	BOY	EOY	BOY	EOY	BOY	EOY	BOY	EOY	BOY	EOY
Percent of indicators met at EOY: <69% Still Developing 70-79% Satisfactory Progress 80-89% Making Progress 90-100% Mastered										

Student Outcomes Performance Measure Galveston ISD / Moody Early Childhood Center (Addendum A-3)

Academic Goal #2f	2021-2022		2022-2023		2022-2023		2023-2024		2024-2025	
Math Composite	Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range	
	PK3	PK4	PK3	PK4	PK3	PK4	PK3	PK4	PK3	PK4
Percent of indicators met at EOY: <69% Still Developing 70-79% Satisfactory Progress 80-89% Making Progress 90-100% Mastered										

Student Outcomes Performance Measure Galveston ISD / Moody Early Childhood Center (Addendum A-3)

Academic Goal #2g	2021-2022		2022-2023		2022-2023		2023-2024		2024-2025	
Science	Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range	
	PK3	PK4	PK3	PK4	PK3	PK4	PK3	PK4	PK3	PK4
Percent of indicators met at EOY: <69% Still Developing 70-79% Satisfactory Progress 80-89% Making Progress 90-100% Mastered										

Student Outcomes Performance Measure Galveston ISD / Moody Early Childhood Center (Addendum A-3)

Academic Goal #2h	2021-2022		2022-2023		2022-2023		2023-2024		2024-2025	
Social Studies Composite	Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range	
	PK3	PK4	PK3	PK4	PK3	PK4	PK3	PK4	PK3	PK4
Percent of indicators met at EOY: <69% Still Developing 70-79% Satisfactory Progress 80-89% Making Progress 90-100% Mastered										

Student Outcomes Performance Measure Galveston ISD / Moody Early Childhood Center (Addendum A-3)

Academic Goal #2i	2021-2022		2022-2023		2022-2023		2023-2024		2024-2025	
Social-Emotional Behaviors	Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range		Percentage at developmental and learning expectations at age-appropriate range	
	PK3	PK4	PK3	PK4	PK3	PK4	PK3	PK4	PK3	PK4
Percent of indicators met at EOY: <69% Still Developing 70-79% Satisfactory Progress 80-89% Making Progress 90-100% Mastered										

The Operating Partner will present information on academic progress and additional information at quarterly reports to the District Board of Trustees. EOY academic performance will be presented to the District School Board at the fourth quarterly report. The Quarterly Reports presentation dates will be held at the October, January, April, and July School Board Meetings.

Academic Performance Consequences:

1. If the School exceeds its academic target goals on all indicators, the School is demonstrating exemplary performance and is on track for charter renewal and consideration for expansion.
2. If the School meets its academic target goals on all indicators, there is no follow-up action indicated.
3. If the School does not meet its academic target goals on all indicators on initial review, the School will develop a Corrective Action Plan to be approved first by the School's Board of Directors and then by the District's Board of Trustees. Progress on the CAP will be reported to both boards on a quarterly basis.
4. If, in the course of the following school year, the School does not demonstrate a minimum of a 10% improvement towards meeting the standards in the academic standards areas in which it was deficient, then the School will be placed on 3 year(s) probation. The CAP will be updated and reports to both the School's board and the District's Board of Trustees will be made monthly.
5. If, at the end of the probationary period, the School has not made significant progress towards meeting the academic goals, the District authorizer may extend the probationary period or terminate the contract.

Financial Performance Goals

Financial Performance Measures		2021-2022	2022-2023	2022-2023	2023-2024	2024-2025
#1a	Annual Independent Financial report meets expectations outlined in Texas Administrative Code §109.23 (relating to School District Independent Audits and Agreed-Upon Procedures).					
#1ai.	The annual independent audit must provide an audited balance sheet or Statement of Financial Position to district authorizers.					
#1aii.	The annual independent audit must provide an audited income statement or Statement of Activities and Changes in New Assets to district authorizers.					
#1aiii	The annual independent audit must provide an audited statement of cash flows to district authorizers.					
#1aiv.	The annual independent audit must provide notes to the audited financial statements to district authorizers.					
#1av.	The annual independent audit must provide charter school board-approved budget with enrollment targets to district authorizers.					
#1avi.	The annual independent audit must provide an annual debt schedule indicating the total principal and interest due to district authorizers.					
#1b	The Operating Partner shall obtain an unqualified audit opinion, in connection with the annual financial report.					
#1c	The Operating Partner must operate within available funding, and any budget variances must be addressed by modification of spending plans and practices.					
#1d	The Operating Partner will have a minimum of 30 days Cash on hand.					

The Operating Partner will present information of academic progress and additional information at quarterly reports to the District Board of Directors. The Quarterly Reports presentation dates will be held at the October, January, April, and July School Board Meetings.

Financial Performance Consequences:

1. If the campus *Meets Standard* on all financial goals based on an initial review requires no follow-up action by the district authorizer.
2. For the purposes of annual reporting and high-stakes decision making, if the school does not *Meets Standard* based on an *initial* review of the school's financial goals, the Operating Partner will develop of a corrective action plan (CAP) to address the deficiencies. The CAP will be approved by the District Board of Trustees. Progress toward the goals identified in the CAP will be reported to the District Board of Trustees by the COO during the quarterly reports.
3. If the school does not *Meets Standards* or show growth towards meeting standards on the same financial goal during the following year, the OP will be placed on a 3-year probation. The CAP will be updated by the OP to reflect the needs, and findings will be presented to both the District's Board of Trustees and the MECC Board of Directors on a monthly basis.
4. After the probationary period, if the OP has not made significant progress towards meeting the financial goals, the district authorizers may extend the probationary period or terminate the contract.

SEC.1. SCHOOL NAME

The official name of the Charter Holder for the open-enrollment charter school is Moody Early Childhood Center.

The official name of the Charter School is Moody Early Childhood Center, which may be referred to throughout the Board Policy Manual as “Moody Early Childhood Center”.

SEC.2. MOODY EARLY CHILDHOOD CENTER BOUNDARIES

In accordance with the Moody Early Childhood Center charter on file with the Texas Education Agency, Moody Early Childhood Center is authorized to serve student who reside within the geographical boundaries of the following independent school districts:

- Galveston ISD

CHARTER SCHOOL AUTHORITY

MOODY EARLY CHILDHOOD CENTER is governed under the governing structure described by its open-enrollment charter.

SEC.1. RESPONSIBILITY FOR MOODY EARLY CHILDHOOD CENTER OPERATIONS

a) Primary Responsibilities

The Board of Directors of **MOODY EARLY CHILDHOOD CENTER** (the “Board”) has the primary responsibility for:

- (1) Implementing the public school program authorized by the **MOODY EARLY CHILDHOOD CENTER** open-enrollment charter; and
- (2) Ensuring the performance of students enrolled in **MOODY EARLY CHILDHOOD CENTER** in accordance with the Texas Education Code.

19 Tex. Admin. Code § 100.1101(a).

b) Alienation of Open-Enrollment Charter

The Board derives its authority to operate **MOODY EARLY CHILDHOOD CENTER** schools from the **MOODY EARLY CHILDHOOD CENTER** open-enrollment charter.

- (1) The Board shall, acting as a body corporate in meetings posted in compliance with Government Code, Chapter 551, oversee the management of all **MOODY EARLY CHILDHOOD CENTER** charter schools.
- (2) Except as provided below, the Board’s powers and duties to operate all **MOODY EARLY CHILDHOOD CENTER** charter schools shall not be delegated, transferred, assigned, encumbered, pledged, subcontracted, or in any way alienated by the Board .
- (3) **MOODY EARLY CHILDHOOD CENTER** shall notify the Texas Education Agency in writing prior to initiating bankruptcy proceeding respecting the **MOODY EARLY CHILDHOOD CENTER**.
- (4) **Exclusive Method for Delegating Charter Powers and Duties**. Any power or duty of the Board delegated to an officer, employee, contractor, management company, creditor, or any other person shall either be specified in the **MOODY EARLY CHILDHOOD CENTER** open-enrollment charter or a charter delegation amendment approved by the Texas Education Agency division responsible for charter schools.

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

c) Accountability for Delegated Powers and Duties

MOODY EARLY CHILDHOOD CENTER BOARD POLICY MANUAL

POLICY GROUP 1 – GOVERNANCE

BOARD AUTHORITY, ROLES, AND RESPONSIBILITIES

PG-1.2

The Board remains responsible for the management, operation, and accountability of all **MOODY EARLY CHILDHOOD CENTER** charter schools, regardless of whether the Board delegates any of its powers or duties.

19 Tex. Admin. Code § 100.1101(d).

d) *Nondelegable Duties*

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

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

19 Tex. Admin. Code § 100.1033(b)(14)(C).

Sec. 3. Immunity from Liability

- a) Statutory Immunity for the **MOODY EARLY CHILDHOOD CENTER** and Charter School. In matters related to operation of an open-enrollment charter school, an open-enrollment charter school or **MOODY EARLY CHILDHOOD CENTER** is immune from liability and suit to the same extent as a school district.
 - (1) An open-enrollment charter school is a governmental unit as defined by Section [101.001](#), Civil Practice and Remedies Code, and is subject to liability only as provided by Chapter [101](#), Civil Practice and Remedies Code, and only in the manner that liability is provided by that chapter for a school district.
 - (2) An open-enrollment charter school is a local government as defined by Section [102.001](#), Civil Practice and Remedies Code, and a payment on a tort claim must comply with Chapter [102](#), Civil Practice and Remedies Code.

MOODY EARLY CHILDHOOD CENTER BOARD POLICY MANUAL

POLICY GROUP 1 – GOVERNANCE

BOARD AUTHORITY, ROLES, AND RESPONSIBILITIES

PG-1.2

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

Tex. Educ. Code §12.1056

- b) Statutory Immunity for Members of the Board of Directors. A member of the governing body of an open-enrollment charter school or of a **MOODY EARLY CHILDHOOD CENTER** is immune from liability and suit to the same extent as a school district trustee.

Tex. Educ. Code §12.1056

- c) Statutory Immunity for Damages Arising from a Pandemic. An educational institution is not liable for damages or equitable monetary relief arising from a cancellation or modification of a course, program, or activity of the institution if the cancellation or modification arose during a pandemic emergency and was caused, in whole or in part, by the emergency. An “educational institution” means an institution or program that facilitates learning or the acquisition of knowledge, skills, values, beliefs or habits. The term includes a public primary or secondary school.

Tex. Civil Prac & Rem. Code §148.004.

SEC. 1. MANAGEMENT BY BOARD OF DIRECTORS

In accordance with applicable law, the Board of Directors of Moody Early Childhood Center (the “Board”) shall manage the affairs of Moody Early Childhood Center.

SEC. 2. MANAGEMENT THROUGH BOARD POLICY AND DELEGATION

The Board shall manage the day-to-day affairs of Moody Early Childhood Center through authorized delegation and the adoption of policies conforming to applicable law and offering best practices.

SEC. 3. OVERSIGHT OF DAILY OPERATIONS

The Board’s daily oversight and management of Moody Early Childhood Center shall be through a chief executive officer, titled the Executive Director. As the Board’s representative, the Executive Director shall oversee and be responsible for the daily implementation of Board adopted policies, plans, budgets and other actions and resolutions.

SEC. 4. BOARD POLICY TO SUPPLEMENT LAW AND RULES

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

SEC. 5. POLICY DEVELOPMENT AND ADOPTION

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

SEC. 6. GENERAL POLICY DEFINITIONS

The following definitions apply the individual policies contained in the Moody Early Childhood Center Board Policy Manual:

The Board: The Board refers to the Board of Directors of Moody Early Childhood Center.

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

SEC. 7. NON-SUBSTANTIVE EDITS TO POLICIES

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

SEC. 8. IMPLEMENTATION OF BOARD POLICY THROUGH ADMINISTRATIVE PROCEDURES

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

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

The Executive Director or designee shall provide instruction, training, and supervision to Moody Early Childhood Center personnel in the implementation of Board policy and corresponding administrative procedures and shall ensure that Board policy and administrative procedures are provided and available to school personnel, parents, students and other affected parties.

SEC. 9. OFFICIAL BOARD POLICIES AND ADMINISTRATIVE PROCEDURES

The Executive Director shall maintain the original and official policies and administrative procedures adopted by the Board and the corresponding administrative procedures approved by the Executive Director in the central administrative office. In the event that a conflict arises

between copies of a Board policy or administrative procedure, the official copy shall prevail as the authoritative record.

SEC. 10. ACCESSIBILITY OF POLICIES AND PROCEDURES

Board policies and administrative procedures shall be made accessible to the public at large as required by Chapter 551 of the Texas Government Code and other applicable law. Board policies and the administrative procedures implementing Board policy shall be provided and otherwise made readily accessible to all Moody Early Childhood Center personnel.

SEC. 11. CAMPUS AND DEPARTMENT PROCEDURES

Individual Moody Early Childhood Center campuses and departments may develop campus or departmental procedures, guides or manuals implementing and not conflicting with Board policy or administrative procedures.

SEC. 1. BOARD MEMBER ORIENTATION AND TRAINING

Newly elected or appointed members to the Board shall participate in a local orientation session to familiarize the new Board member with the Moody Early Childhood Center organization, the Articles of Incorporation, Bylaws, Board policies, and relevant portions of the Texas Education Code and the Texas Administrative Code related to governance of an open-enrollment charter school.

a) Training

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

b) Timeline for Completion

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

c) Required Course Content

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

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

d) Additional Required Training

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

e) Continuing Training

Each Board member who has completed the 12 hours of required training shall annually thereafter receive six hours of training, excluding breaks, administrative tasks, and other non-instructional time, delivered by a registered course provider delivered by an authorized

trainer. Self-instructional continuing training materials may be used in no more than one hour of the required continuing training. A Board member may carry over as much as 25% of annual continuing training hours earned in excess of the required amount to meet the following year's training requirements.

f) Exceptions and Exemptions

The Board may adopt a resolution permitting individual members to meet the prescribed training through an alternate training program as permitted by 19 Tex. Admin. Code § 100.1102(h).

SEC. 2. TRAINING FOR CHARTER SCHOOL OFFICERS

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

SEC. 3. RECORD OF COMPLIANCE

All Board members, Chief Executive and Central Administrative Officers, Campus Administrative Officers, and Business Managers shall comply with initial and annual training requirements established in law. Moody Early Childhood Center shall document compliance with these requirements. *19 Tex. Admin. Code § 100.1108(1)*.

SEC. 4. CONTINUED SERVICE

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

SEC. 5. AUDIT DISCLOSURE

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

SEC. 1. PURPOSE

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

The purpose of this Policy is to govern the acceptance of gifts by Moody Early Childhood Center and to provide guidance to the Board, the Executive Director, and prospective donors when making gifts to Moody Early Childhood Center. The provisions of this Policy shall apply to all gifts received by Moody Early Childhood Center for any of its schools, programs or services, and to the acceptance of gifts made to Moody Early Childhood Center or for the benefit of any of its schools or programs.

SEC. 2. RESTRICTIONS ON GIFTS

Moody Early Childhood Center will accept unrestricted gifts, and gifts for specific schools, programs and purposes, provided that such gifts are consistent with Moody Early Childhood Center's mission, purposes, and priorities. Moody Early Childhood Center will not accept gifts that are too restrictive in purpose. Gifts that are too restrictive are those that violate the charitable and educational trust of Moody Early Childhood Center, or that are accompanied by an improper economic benefit to the donor or vest the donor with inappropriate control or influence. The Board shall make all final decisions on the restrictive nature of a gift and its acceptance or refusal.

SEC. 3. GIFT ACCEPTANCE COMMITTEE

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

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

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

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

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

SEC. 5. TYPES OF GIFTS

The following types of gifts are generally acceptable:

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

The following types of gifts are generally not acceptable:

1. Charitable gift annuities
2. Pooled income funds

SEC. 6. CRITERIA FOR CERTAIN TYPES OF GIFTS

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

1. Cash or Cash Equivalents: Cash is acceptable in any form. Checks shall be made payable to “Moody Early Childhood Center” and shall be delivered to the Executive Director at the Moody Early Childhood Center administrative office.
2. Charitable Pledge Agreements: Acceptable if payable only in acceptable form as set forth

in this Policy. Pledges payable over more than one year shall generally not be acceptable unless at least \$1,000.00.

3. Securities: Both publicly traded securities and marketable closely held securities are acceptable upon review by Board and/or the Gift Acceptance Committee and legal counsel. Review and recommendation by an outside financial professional or money manager may be sought prior to acceptance of the gift. Marketable securities may be transferred to an account maintained at one or more brokerage firms or delivered physically with the transferor's signature or stock power attached. As a general rule, Moody Early Childhood Center shall promptly sell all securities upon receipt.
4. Closely Held Securities; Other Intangibles: Moody Early Childhood Center shall not accept securities and other intangible assets (such as interests in LLPs and LLCs or other ownership forms) that may not be sold or transferred, that have no value, are not marketable, or that may generate additional liability or undesirable tax or other consequences for Moody Early Childhood Center. Review and recommendation by legal counsel and/or a financial professional should be sought before making a final decision on acceptance of closely held securities or other intangibles as a gift.
5. Tangible Personal Property: Gifts of tangible personal property are often called "in-kind" gifts and include gifts such as supplies, equipment, furniture, printed materials, books, food, software, motor vehicles and artwork. Gifts of tangible personal property will be examined as follows:
 - a) Will the property be used by Moody Early Childhood Center in furtherance of its mission?
 - b) Is the property marketable?
 - c) Are there restrictions on the use, display or disposition of the property?
 - d) Are there carrying costs of the property?

Moody Early Childhood Center shall not value or offer to value the property. The donor shall sign a statement of ownership and disclose any liens on the property. Moody Early Childhood Center shall not accept any property subject to a restriction on its ability to use, sell or otherwise dispose of the property as it deems necessary.

6. Life Insurance Policy/Beneficiary Designation: Moody Early Childhood Center may accept the gift of a life insurance policy, provided Moody Early Childhood Center is named as both the owner of the policy and irrevocable beneficiary of the policy prior to acceptance of the gift. Beneficiary designations shall not be recorded as gifts to Moody Early Childhood Center unless and until the gift is irrevocable. Where the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable. If the policy is not fully paid-up and the

donor does not continue to make gifts to cover premium payments on the policy, Moody Early Childhood Center shall have the right to continue to pay the premiums, convert the policy to paid-up insurance, surrender the policy for its current cash value, or otherwise make use of its value.

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

A title report or abstract of title shall be obtained by Moody Early Childhood Center prior to the acceptance of the real property gift. Criteria for acceptance of the property shall include:

- a) A review of a complete profile of the property, including the title report and environmental review or audit, inspection reports, the deed, any encumbrances, leases, and tax bills.
 - b) A review of the carrying costs, sale and holding costs of the property, such as insurance, property taxes, mortgages, notes, etc.
 - c) A review of the restrictions, reservations, easements or other limitations on the property.
 - d) A review of the use of the property for Moody Early Childhood Center's purposes.
 - e) A review of a recent appraisal of the property and consultation with a real estate advisor as to marketability of the property.
8. Oil, Gas and Mineral Interests: Moody Early Childhood Center may accept oil and gas property interests upon review by Board and/or the Gift Acceptance Committee and legal counsel. The property shall undergo an environmental review by an environmental firm. The property should be reviewed for liabilities or other considerations (such as undesirable tax consequences or valuation issues for working interests) that might make receipt of the gift inappropriate.
 9. Charitable Remainder Trusts: Moody Early Childhood Center may accept designation as remainder beneficiary of a charitable remainder trust upon the review by the Board and/or the Gift Acceptance Committee and legal counsel. Moody Early Childhood Center will

not accept appointment as a trustee of a charitable remainder trust.

10. Charitable Lead Trusts: Moody Early Childhood Center may accept designation as income beneficiary of a charitable lead trust upon review by the Board and/or the Gift Acceptance Committee and legal counsel. Moody Early Childhood Center will not accept appointment as trustee of a charitable remainder trust.
11. Retirement Plan Beneficiary Designations: Donors and supporters of Moody Early Childhood Center are encouraged to name Moody Early Childhood Center as a beneficiary of a retirement plan. Such designations shall not be recorded as gifts unless and until the gift is irrevocable. When the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.
12. Bequests: Donors and supporters of Moody Early Childhood Center are encouraged to make bequests to Moody Early Childhood Center under their wills and trusts. Such bequests will not be recorded as gifts unless and until the gift is irrevocable. When the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

SEC. 7. ACCEPTANCE OF GIFT BY THE EXECUTIVE DIRECTOR

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

SEC. 8. VALUATION OF GIFTS

Moody Early Childhood Center shall record a gift received by Moody Early Childhood Center at its valuation for gift purposes on the date of gift and accordance with Generally Accepted Accounting Principles (“GAAP”).

SEC. 9. IRS FILING UPON SALE OF GIFT

Moody Early Childhood Center is responsible for filing IRS Form 8282 upon the sale or disposition of any asset sold by Moody Early Childhood Center within two years of receipt where the charitable deduction value of the item was \$5,000.00 or greater. Moody Early Childhood Center must file such form within 125 days of the date of sale or disposition of the asset. The Business Manager shall be responsible for the recordation and filing of this form to the IRS.

SEC. 10. WRITTEN ACKNOWLEDGMENT OF GIFTS AND CONTRIBUTIONS

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Written Acknowledgement of all gifts made to Moody Early Childhood Center and compliance with the current IRS requirements in acknowledgement of such gifts shall be the responsibility of the Board. The Business Manager shall be responsible for ensuring compliance with IRS requirements regarding acknowledgments.

SEC. 11. CONFIDENTIALITY

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

SEC. 12. REVIEW OF POLICY; CHANGES TO POLICY

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

PART I: PREAMBLE

The Board of Directors (collectively, the “Board” or the “Directors,” and individually a “Director”) of Moody Early Childhood Center is committed to maintaining the highest legal and ethical standards in the conduct of the business of Moody Early Childhood Center, and to protecting the integrity and reputation of Moody Early Childhood Center, Moody Early Childhood Center, the Board, and all Moody Early Childhood Center employees, volunteers, and programs.

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

PART II: ETHICAL PRINCIPLES

SEC. 1. PERSONAL AND PROFESSIONAL INTEGRITY

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

SEC. 2. FINANCIAL STEWARDSHIP

As a tax-exempt public charity, Moody Early Childhood Center shall expend funds and record those expenditures in a manner that advances the charitable and educational mission and objectives of Moody Early Childhood Center, and not the private interests of Directors or Officers.

SEC. 3. PUBLIC ACCOUNTABILITY

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

SEC. 4. ACCURACY AND RETENTION OF RECORDS

Moody Early Childhood Center will create and maintain records that satisfy operational and legal requirements, including federal, state and local laws.

SEC. 5. POLITICAL ACTIVITIES

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

SEC. 6. ENDORSEMENTS AND USE OF THE MOODY EARLY CHILDHOOD CENTER NAME AND AFFILIATION

The Moody Early Childhood Center and Moody Early Childhood Center name, logo, letterhead, or other intellectual property may not be used by any person to endorse or gain support for a cause without prior authorization in writing from the Directors.

SEC. 7. QUESTIONS, CONCERNS OR REPORTS OF VIOLATIONS

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

PART III: CONFLICTS OF INTEREST

SEC. 1. STATEMENT ON STATE LAW

Moody Early Childhood Center and its Officers and Directors shall comply with state law governing conflicts of interest among charter school and charter holder board members and officers, as described in Chapter 12 of the Texas Education Code and 19 TAC §§ 100.1131–100.1135, including, but not limited to the following:

a) Employees Serving on the Board

- (1) Directors and Officers of Moody Early Childhood Center shall comply with Local Government Code, Chapter 171 in the manner provided by the conflict of interest provisions described in 19 TAC §§ 100.1131–100.1135.
- (2) Officers of Moody Early Childhood Center are defined by the Commissioner of Education to be persons charged with the duties of, or acting as a Chief Executive Officer, a Central Administration Officer, a Campus Administration Officer, or a

Business Manager, regardless of whether the person is an employee or contractor of the charter holder, the school, a management company, or any other person; or a volunteer working under the direction of the charter holder, the school, or a management company. A charter holder employee or independent contractor engaged solely in non-charter activities for the charter holder is not an “officer” of Moody Early Childhood Center.

- (3) The Moody Early Childhood Center Chief Executive Officer is a person (or persons) directly responsible to the governing body of the charter holder for supervising one or more Central Administration Officers, Campus Administration Officers, and/or Business Managers.
- (4) A Central Administration Officer for Moody Early Childhood Center is a person charged with the duties of, or acting as, a Chief Operating Officer, director, or assistant director of the charter holder for Moody Early Childhood Center, including one or more of the following functions:
 - (A) assuming administrative responsibility and leadership for the planning, operation, supervision, or evaluation of the education programs, services, or facilities of the Board, for appraising the performance of the Board’s or Moody Early Childhood Center’s staff;
 - (B) assuming administrative authority or responsibility for the assignment or evaluation of any of the personnel of the Board, including those employed by a management company;
 - (C) making recommendations to the Board or Moody Early Childhood Center regarding the selection of personnel of the Board, including those employed by a management company;
 - (D) recommending the termination, non-renewal, or suspension of an employee or officer of the Board, including those employed by a management company; or recommending the termination, non-renewal, suspension, or other action affecting a management contract;
 - (E) managing the day-to-day operations of the Board, as its administrative manager;
 - (F) preparing or submitting a proposed budget to the charter holder Board or Moody Early Childhood Center (except for developing budgets for a Moody Early Childhood Center campus, if this is a function performed by a Campus Administration Officer under the terms of the open-enrollment charter);
 - (G) preparing recommendations for policies to be adopted by the Board, or overseeing the implementation of adopted policies, except for legal services provided by an attorney

- licensed to practice law in this state, or public accountancy services provided by a certified public accountant licensed to practice public accountancy in this state;
- (H) developing, or causing to be developed, appropriate administrative regulations to implement policies established by the Board, except for legal services provided by an attorney licensed to practice law in this state, or public accountancy services provided by a certified public accountant licensed to practice public accountancy in this state;
 - (I) providing leadership for the attainment of student performance in Moody Early Childhood Center, based on the indicators adopted under TEC §§ 39.053–39.054, or other indicators in the Moody Early Childhood Center charter; or
 - (J) organizing the central administration of the Board.
- (5) A Campus Administration Officer for Moody Early Childhood Center is a person charged with the duties of, or acting as, a principal or assistant principal of a Moody Early Childhood Center campus, including one or more of the following functions:
- (A) approving teacher or staff appointments for a Moody Early Childhood Center campus, unless this function is performed by a Central Administration Officer under the terms of the open-enrollment charter;
 - (B) setting specific education objectives for a Moody Early Childhood Center campus, unless this function is performed by a Central Administration Officer under the terms of the open-enrollment charter;
 - (C) developing budgets for a Moody Early Childhood Center campus, unless this function is performed by a Central Administration Officer under the terms of the open-enrollment charter;
 - (D) assuming the administrative responsibility or instructional leadership, under the supervision of a Central Administration Officer, for discipline at a Moody Early Childhood Center campus;
 - (E) assigning, evaluating, or promoting personnel assigned to a Moody Early Childhood Center campus, unless this function is performed by a Central Administration Officer under the terms of the open-enrollment charter; or
 - (F) recommending to a Central Administration Officer the termination or suspension of an employee assigned to a Moody Early Childhood Center campus, or recommending the non-renewal of the term contract of such an employee.

- (6) A Business Manager is a person charged with managing the finances of Moody Early Childhood Center or Moody Early Childhood Center.
- (7) **Also Excluded from the Board.** Except as otherwise provided by law, a person who receives “compensation or remuneration” (as defined by law and herein) from the nonprofit corporation holding Moody Early Childhood Center’s open-enrollment charter may not serve on the Board, with the following exceptions:
- (A) If each charter school operated by the Board as charter holder has received a satisfactory accountability rating, as defined by applicable law, for at least two of the preceding three school years, Moody Early Childhood Center employees may serve on the Board, as described below, and as provided by law.
- (B) If the charter holder has operated at least one charter school which reported attendance that occurred prior to September 2, 2001, but no charter school operated by the charter holder has received a sufficient number of substantive ratings to determine whether it has received a satisfactory rating for at least two of the preceding three school years, then Moody Early Childhood Center employees may serve on the governing body of the charter holder, as provided by law.
- (C) An employee of Moody Early Childhood Center may serve as a Director if: (i) only employees of Moody Early Childhood Center, and not employees of the Board, serve on the Board; (ii) the compensation or remuneration received by that Director is limited to salary, bonuses, benefits, or other compensation received pursuant to the employment relationship with Moody Early Childhood Center; (iii) Moody Early Childhood Center employees do not constitute a quorum of the Board or any committee of the Board; and (iv) all Moody Early Childhood Center employees serving on the Board comply with all applicable conflict of interest provisions required by law.

b) Conflicts Requiring an Affidavit and Abstention from Voting

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

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

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

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

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

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

c) Separate Vote on Budget Item

The Directors shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a Director has a substantial interest. Abstention is required, except as provided above and in 19 TAC § 100.1133(c), otherwise the affected Director may not participate in that separate vote. The affected Director may vote on a final budget if: (1) the affected Director has complied with the above-stated requirements; and (2) the matter in which the affected Director is concerned has been resolved.

SEC. 2. STATEMENT ON FEDERAL LAW

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

a) Interested Person

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

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

- (A) an ownership or investment interest, directly or indirectly, in any entity with which Moody Early Childhood Center has a transaction or arrangement;
 - (B) a compensation arrangement with Moody Early Childhood Center, or with any entity or individual with which Moody Early Childhood Center has a transaction or arrangement; or
 - (C) a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which Moody Early Childhood Center is negotiating a transaction or arrangement.
- (2) “Compensation” is defined to include direct and indirect remuneration, as well as gifts or favors that are not insubstantial.
- (3) A person has an “Interest” if the person has a substantial interest in a business entity or a substantial interest in real property as described in Part III, Section 2-a-1 above.

b) Interested Person with Conflict of Interest

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

SEC. 3. CONFLICT OF INTEREST PROCEDURES

a) Duty of Prior Disclosure

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

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

- (2) **Untimely Disclosure.** If an Interested Person fails to disclose the Interest before the Board acts on a transaction as to which a Director has an Interest, then the Interested Person shall promptly submit a written statement to the Board setting forth all material facts regarding the Interest, along with an explanation concerning the untimely nature of the notice.
- (3) **Failure to Disclose.** If the Board has reasonable cause to believe that an Interested Person failed to disclose an Interest, the Board shall inform the Interested Person of the basis for such belief and afford the Interested Person an opportunity to explain the alleged failure to disclose. After hearing the Interested Person’s explanation, and conducting such investigation as may be warranted under the circumstances, the Board may determine that the Interested Person failed to disclose an actual Conflict of Interest. In such event, the Board shall vote on the appropriate corrective action.

b) Determining Whether a Conflict of Interest Exists

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

c) Vote by Disinterested Directors

- (1) **Nonparticipation of Directors with Conflict.** A Director who has a Conflict of Interest shall neither vote nor participate in, nor be permitted to hear the Board’s discussion of the matter, except to disclose material facts and to respond to questions. Such Director shall not attempt to exert his or her influence with respect to the matter, either before, during, or outside of the Board meeting.
- (2) **Action by Disinterested Directors.** If the Board concludes that a Conflict of Interest exists, the Board shall determine by voting whether the transaction should be authorized, approved or ratified. The vote shall be conducted as follows:
 - (A) Except as otherwise permitted by law, Directors with a Conflict of Interest shall leave the room in which the meeting is conducted.
 - (B) Except as otherwise allowed by law, and as set forth in Part III, Section 1-b-3 (Conflicts Requiring an Affidavit and Abstention from Voting), a majority of the disinterested Directors, without regard to any quorum requirement, must vote affirmatively for the transaction to be authorized, approved or ratified. However, a transaction cannot be authorized, approved or ratified by a single Director.

- (3) **Vote Not Disallowed by Presence of Directors with a Conflict.** The presence of, or a vote cast by, a Director with a Conflict of Interest in a transaction does not affect the validity of a vote regarding the transaction if the transaction is otherwise authorized, approved or ratified, as prescribed herein.
- (4) **Circumstances in Which Comparability Data is Necessary.** If the transaction involves compensation for services of a Director, an Officer, or other individual deemed to be a disqualified person (as defined above at page 6(B)) under the federal tax rules, or if the transaction involves the transfer of property or other benefit to a Director, Officer, or other individual deemed to be a disqualified person under the federal tax rules, the disinterested Directors or committee must determine that the value of the economic benefit provided by Moody Early Childhood Center to the Interested Person or Persons does not exceed the value of the consideration received in exchange by obtaining and reviewing appropriate comparable data (“Comparability Data”).
- (A) When considering the comparability of compensation for example, the relevant data which the Board or committee may consider includes, but is not limited to, the following: (i) compensation levels paid by similarly-situated schools; (ii) the availability of similar services within the same geographic area; (iii) current compensation surveys compiled by independent firms; and (iv) written offers from similar institutions competing for the same person’s services. When the transaction involves the transfer of real property as compensation, the relevant factors include, but are not limited to: (i) current independent appraisals of the property, and (ii) offers received in a competitive bidding process.
- (B) Based on the Comparability Data, the Board or committee shall determine, by a majority vote of the disinterested Directors or committee members, whether the transaction or arrangement is fair and reasonable to Moody Early Childhood Center. In conformity with the above determination, the Board or committee shall make its decision as to whether to enter into the transaction or arrangement.
- (C) If such transaction or arrangement is approved by the Board or committee, the Comparability Data and the approval shall be made part of the Board minutes in accordance with Part III, Section 3-d (Documentation) below.

d) Documentation

The Board Secretary shall keep accurate minutes reporting:

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

- (A) The name(s) of the person(s) who disclosed or otherwise were found to have an Interest in connection with an actual or possible Conflict of Interest, the nature of the Interest, any action taken to determine whether a Conflict of Interest was present, and the Board's or committee's decision as to whether a Conflict of Interest in fact existed.
- (B) The names of the persons who were present for discussions and votes relating to the Conflict of Interest, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.
- (C) A completed Affidavit of Abstention complying with Local Government Code Chapter 171 and 19 TAC §§ 100.1131-1134 (*see* Affidavit Exhibit A).
- (2) **Nonparticipation of Directors with Conflict.** That the Director or Directors with an Interest or a Conflict of Interest left the room and did not participate in the determination of whether a Conflict of Interest exists or the vote regarding the transaction or arrangement;
- (3) **Comparability Data.** The Comparability Data considered and relied upon by the Board in its consideration of the transaction or arrangement; and
- (4) **Vote of Disinterested Directors.** That the remaining disinterested Directors reviewed the Transaction and voted upon it, and the result of their vote.

SEC. 4. COMPENSATION

- (1) A Director who receives compensation, directly or indirectly, from Moody Early Childhood Center for services is precluded from voting on matters pertaining to that Director's compensation.
- (2) A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from Moody Early Childhood Center for services is precluded from voting on matters pertaining to that member's compensation.
- (3) No voting member of the Board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from Moody Early Childhood Center, either individually or collectively, is prohibited from providing information to any committee regarding compensation.
- (4) Except with respect to Board decisions regarding a *bona fide* class or category of employees pursuant to Government Code § 573.062(b), a voting member of the Board or

any committee whose jurisdiction includes compensation matters is precluded from voting on personnel matters (including matters related to compensation) concerning a person related within the third degree by consanguinity or within the second degree by affinity (as defined below and as specified by Government Code § 573.002).

SEC. 5. DEFINITIONS

The following terms shall have the following meaning:

- (1) **Director or Officer.** A member of the governing body of a charter holder, a member of the governing body of a charter school, or an officer of a charter school. An officer or director means a person charged with the duties of, or acting as, a Chief Executive Officer, a Central Administration Officer, a Campus Administration Officer, or a Business Manager, regardless of whether the person is an employee or contractor of a charter holder, charter school, management company, or any other person; or a volunteer working under the direction of a charter holder, charter school, or management company. A charter holder employee or independent contractor engaged solely in non-charter activities for the charter holder is not an “officer of a charter school.” 19 TAC §100.1001(16).
- (2) **Business entity.** A sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, agency, political subdivision, or any other entity recognized by law.
- (3) **Substantial interest in business entity.** A person has a substantial interest in a business entity if: (1) the person owns 10% or more of the voting stock or shares of the business entity or owns either 10% or more or \$15,000 or more of the fair market value of the business entity; or (2) funds received by the person from the business entity exceed 10% of the person’s gross income for the previous year.
- (4) **Substantial interest in real estate.** A person has a substantial interest in real estate, if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.
- (5) **Substantial interest through a relative or family member.** A Director or Officer is considered to have a substantial interest if a person related to the Director or Officer within the third degree by consanguinity or the third degree by affinity (as defined below) has a substantial interest under **Sec. 1.6.2.5(iii)** above. 19 TAC § 100.1132(d).
- (6) **Family.** Family means a disqualified person’s spouse, siblings, spouses of siblings, ancestors, children, grandchildren, great grandchildren, and spouses of children, grandchildren, and great grandchildren.

PART IV: NEPOTISM

SEC. 1. NEPOTISM GENERALLY PROHIBITED

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

- (1) The person is related to the Director or Officer by consanguinity (blood) within the third degree or by affinity (marriage) within the second degree (as defined below); or
- (2) The Director or Officer holds the appointment or confirmation authority as a member of a local board and the person is related to another member of the Board by blood or marriage within a prohibited degree. Government Code §§ 573.002, 573.041.
- (3) Refer to attached diagram, Exhibit B.

SEC. 2. INDEPENDENT CONTRACTORS

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

SEC. 3. PAYMENT TO PROHIBITED PERSON

A Director or Officer may not approve an account or draw or authorize the drawing of a warrant or order to pay the compensation of an ineligible person if the Director or Officer knows the person is ineligible. Government Code § 573.083; 19 TAC § 100.1116.

SEC. 4. RELATION BY CONSANGUINITY

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

a) Third Degree of Consanguinity

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

- (1) Parent or child (first degree);
- (2) Brother, sister, grandparent, or grandchild (second degree); and

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

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

SEC. 5. RELATION BY AFFINITY

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

a) First Degree of Affinity

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

b) Second Degree of Affinity

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

c) Third Degree of Affinity

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

- (1) Anyone related by consanguinity to the person's spouse within the first or second degree;
and
- (2) The spouse of anyone related to the person by consanguinity within the first or second degree. Government Code § 573.025.

SEC. 6. EXISTING EMPLOYEES/CONTINUOUS EMPLOYMENT

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

- (1) Thirty days, if the Director or Officer is appointed;
- (2) Six months, if the Director or Officer is elected. Government Code § 573.062(a); or
- (3) A person who was not restricted or prohibited under Education Code 12.1055 as it existed before September 1, 2013, from being employed by Moody Early Childhood Center and who was employed by Moody Early Childhood Center before September 1, 2013, is considered to have been in continuous employment as provided by Government Code § 573.062(a), and is not prohibited from continuing employment with Moody Early Childhood Center. Education Code § 12.1055(d).

a) Continuous Employment Exception

For purposes of calculating the appropriate date for the applicability of the continuous-employment exception, a superintendent with final authority to select personnel is an appointed Director or Officer. *Atty. Gen. Op. GA-177 (2004)*. If an employee continues in a position under this exception, the Director or Officer to whom the employee is related in a prohibited degree may not participate in any deliberation or voting on the appointment, reappointment, employment, reemployment, change in status, compensation, or dismissal of the employee, if the action applies only to the employee and is not taken regarding a *bona fide* class or category of employees. Government Code § 573.062(b). A “change in status” includes a reassignment within an organization, whether or not a change in salary level accompanies the reassignment. *Atty. Gen. Op. JC-193 (2000)*. For an action to be “taken with respect to a *bona fide* category of employees,” the officeholder’s action must be based on objective criteria, which do not allow for the preference or discretion of the officeholder. *Atty. Gen. Op. DM-46 (1991)*. The nepotism prohibitions do not apply to appointment or employment of a substitute teacher. Government Code § 573.061.

b) Retired Teachers

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

SEC. 7. TRADING PROHIBITED

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

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

SEC. 8. SOURCE OF FUNDING IRRELEVANT

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

SEC. 9. NEPOTISM EXCEPTIONS

The nepotism exceptions described in 19 TAC § 100.1115 also apply. Notwithstanding an exception, a Director or Officer related in a prohibited degree may not participate in any deliberation or voting on the appointment, reappointment, or confirmation of same, employment, reemployment, change in status, compensation, or dismissal of an individual, unless the action is taken regarding a *bona fide* class or category of employees.

SEC. 10. ENFORCEMENT OF NEPOTISM PROHIBITIONS

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

- (1) Removal must be in accordance with the Articles and Bylaws of Moody Early Childhood Center and in accordance with the terms of the charter and other state and federal law.
- (2) A Director or Officer violating the nepotism laws may also be removed by the Attorney General and may be subject to criminal and other penalties.

SEC. 11. DELEGATION OF HIRING AUTHORITY

The Board may delegate final authority to select Moody Early Childhood Center personnel to the Chief Executive Officer/Superintendent, Human Resources Director, or other designated Officer.

If such authority is designated to the Chief Executive Officer/Superintendent, the Chief Executive Officer/Superintendent is a "public official" for purposes of Chapter 573, Government

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

- (1) The person is related to the Chief Executive Officer/Superintendent by consanguinity (blood) within the third degree or by affinity (marriage) within the second degree; or
- (2) The person is related to a Board member by blood or marriage within a prohibited degree. Government Code §§ 573.002, 573.041.

An individual who is related to the Chief Executive Officer/Superintendent within the relevant level or consanguinity (blood) or by affinity (marriage) and was employed by Moody Early Childhood Center before September 1, 2013 is considered to have been in continuous employment as provided by Government Code § 573.062(a), and is not prohibited from continuing employment with Moody Early Childhood Center.

Notwithstanding the above, each Director remains subject to Chapter 573, Government Code with respect to all Moody Early Childhood Center employees. Education Code §§ 11.1513(f), 12.1055.

PART V: RELATED PARTY TRANSACTIONS

SEC. 1. COMPLIANCE WITH COMMISSIONER RULE

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

SEC. 2. DEFINITIONS

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

1. A party seeking to enter into a financial transaction with Moody Early Childhood Center, and such party has a current or former Board member, administrator, or officer who is:
 - a. A Board member, administrator, or officer of Moody Early Childhood Center; or

- b. Related within the third degree of consanguinity or affinity, as determined under Chapter 573, Government Code, to a Board member, administrator, or officer of Moody Early Childhood Center;
2. Moody Early Childhood Center’s related organizations, joint ventures, and jointly governed organizations;
3. Moody Early Childhood Center’s Board members, administrators, or officers or a person related to a Board member, administrator, or officer within the third degree of consanguinity or affinity, as determined under Chapter 573, Government Code; and
4. Any other disqualified person, as that term is defined by 26 U.S.C. § 4958(f).

For purposes of subsection 1 above, a person is a former Board member, administrator, or officer if the person served in that capacity within one year of the date on which a financial transaction between Moody Early Childhood Center and a related party occurred.

SEC. 3. AUDIT BY COMMISSIONER

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

SEC. 4. ANNUAL AUDIT DISCLOSURE

Moody Early Childhood Center must include in its annual audit a list of all transactions with a related party. Additionally, the annual audit must separately disclose:

1. All financial transactions between Moody Early Childhood Center and any related party, separately stating the principal, interest, and lease payments; and
2. The total compensation and benefits provided by Moody Early Childhood Center and any related party for each member of the Board and each officer and administrator of Moody Early Childhood Center and the related party.

PART VI: CONFIDENTIALITY

A Director and Officer shall exercise care not to disclose Confidential Information. Confidential Information is information deemed confidential by law, and any information not generally known or publicly available, or that Moody Early Childhood Center maintains as confidential, proprietary, restricted, or otherwise as not to be disclosed generally, and any information that the

Board or Moody Early Childhood Center otherwise determines or deems as Confidential Information.

A Director shall not use Moody Early Childhood Center property, Confidential Information, or the status of his or her position to solicit business for others, or in any other manner obtain a private financial, social or political benefit.

PART VII: DISCLOSURE AND ANNUAL REVIEW

SEC. 1. NEW DIRECTORS AND OFFICERS

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

SEC. 2. PERIODIC REVIEW

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

SEC. 3. ANNUAL REVIEW

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

SEC. 4. APPLICABLE LAW

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

MOODY EARLY CHILDHOOD CENTER BOARD POLICY MANUAL
POLICY GROUP 1 – GOVERNANCE
ETHICS, CONFLICT OF INTEREST, AND NEPOTISM

PG-1.6

Adopted the _____ day of _____, 20__

President

Member

Secretary

Member

Treasurer

DATE ISSUED: May, 2023

19 of 24

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EXHIBIT A
AFFIDAVIT OF ABSTENTION

STATE OF TEXAS §
 §
COUNTY OF _____ §

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

I have a substantial interest in a business entity or real property that may receive a special
economic effect that is distinguishable from the effect on the public by an action contemplated
by Moody Early Childhood Center.

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

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

- an ownership interest of 10 percent or more of the voting stock or shares of the
business entity;
- an ownership interest of 10 percent or more or \$15,000 or more of the fair market
value of the business entity;

- funds received from the business entity exceed 10 percent of _____ (my, his, her) gross income for the previous year;
- real property is involved and _____ (I, he, she) have/has an equitable or legal ownership with a fair market value of at least \$2,500;

Upon filing of this affidavit with the official record keeper of Moody Early Childhood Center, I affirm that I shall abstain from voting or further participating in any matter involving the business entity or real property, unless allowed by law.

SIGNED this the _____ day of _____, 20__.

Signature of Affiant

Title

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

SWORN TO and SUBSCRIBED before me on the _____ day of _____,
20__.

Notary Public, State of Texas
My commission expires: _____

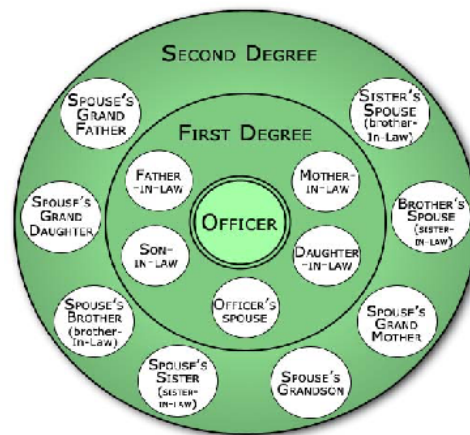
(seal)

EXHIBIT B
NEPOTISM CHART

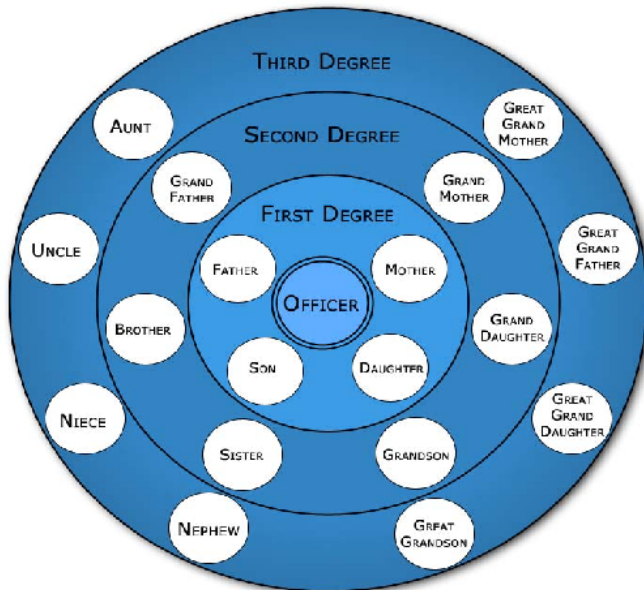
NEPOTISM CHART

The chart below shows

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



AFFINITY KINSHIP
 Relationship by Marriage



CONSANGUINITY KINSHIP
 Relationship by Blood

EXHIBIT C

ANNUAL STATEMENT OF DISCLOSURE AND COMPLIANCE

Name: _____

Position: _____

- Please describe below any relationships, positions, or circumstances in which you are involved that you believe could be considered an Interest or that might be perceived as an actual or possible Conflict of Interest, as defined in the Moody Early Childhood Center Ethics, Conflict of Interest and Nepotism Policy. Please also describe any familial relationships that would qualify as relationships within the prohibited degree as defined in the Moody Early Childhood Center Ethics, Conflict of Interest and Nepotism Policy.

- I am involved in no activity, relationship, position or circumstance that could be considered an Interest or might be perceived as an actual or possible Conflict of Interest, as defined in the Moody Early Childhood Center Ethics, Conflict of Interest and Nepotism Policy. I do not have any familial relationships that would qualify as relationships within the prohibited degree as defined in the Moody Early Childhood Center Ethics, Conflict of Interest and Nepotism Policy.

I hereby certify that the information as set forth above is true and complete to the best of my knowledge. I have reviewed and agree to abide by the Moody Early Childhood Center Ethics, Conflict of Interest and Nepotism Policy that is currently in effect.

Signature: _____

Date: _____

SEC. 1. GENERAL PROVISIONS

a) Public Information Defined

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

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

“Official business” means any matter over which Moody Early Childhood Center has any authority, administrative duties, or advisory duties.

Information is “in connection with the transaction of official business” if the information is created by, transmitted to, received by, or maintained by an officer or employee of Moody Early Childhood Center in the officer’s or employee’s official capacity, or a person or entity performing official business or a governmental function on behalf of Moody Early Childhood Center, and pertains to official business of Moody Early Childhood Center.

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

end

b) Forms of Public Information

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

The media on which public information is recorded include:

1. Paper;
2. Film;

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

SEC. 2. PRESERVATION OF INFORMATION

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

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

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

a) Temporary Custodians

For purposes of the TPIA, a “temporary custodian” means an officer or employee of Moody Early Childhood Center who, in the transaction of official business, creates or receives public information that the officer or employee has not provided to the officer for public information or the officer’s agent. The term includes a former officer or employee who created or received public information in the officer’s or employee’s official capacity that has not been provided to the officer for public information or the officer’s agent.

A current or former Board member, officer, or employee of Moody Early Childhood Center does not have, by virtue of the individual’s position or former position, a personal or property right to public information the individual created or received while acting in an official capacity.

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

A temporary custodian’s failure to surrender or return public information as requested by the officer for public information is grounds for disciplinary action by Moody Early Childhood Center, or any other applicable penalties authorized by the TPIA or other law.

Gov't Code § 552.003(7).

b) Calculating Timelines

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

SEC. 3. ONLINE MESSAGE BOARD

If the Board maintains an online message board or similar Internet application under Government Code 551.006, and the Board removes from the online message board or similar Internet application a communication that has been posted for at least 30 days, the Board shall maintain the posting for a period of six years. This communication is public information and must be disclosed in accordance with the TPIA. *Gov't Code § 551.006(d).*

SEC. 4. AVAILABILITY OF PUBLIC INFORMATION

Public information is available to the public, at a minimum, during Moody Early Childhood Center's normal business hours.

SEC. 5. OFFICER FOR PUBLIC INFORMATION AND REQUIRED NOTICES

a) Officer for Public Information

The <<Chief Executive Officer/Superintendent>> or designee shall be Moody Early Childhood Center's officer for public information. Each department head shall be an agent of the officer for purposes of complying with the TPIA.

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

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

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

Gov't Code § 552.201(a)–.204.

b) Sign

The officer for public information shall prominently display a sign in the form prescribed by the Attorney General that contains basic information about the rights of a requestor, the responsibilities of Moody Early Childhood Center, and the procedures for inspecting or obtaining a copy of public information under the TPIA. The officer for public information shall display the sign at one or more places in the Moody Early Childhood Center administrative offices where it is plainly visible to:

1. Members of the public who request public information in person; and
2. Moody Early Childhood Center employees whose duties include receiving or responding to public information requests.

SEC. 6. ACCESS TO PUBLIC INFORMATION

a) Rules of Access

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

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

b) Method of Making Written Request for Public Information

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

1. United States mail;
2. Electronic mail;
3. Hand delivery; or
4. Any other appropriate method approved by Moody Early Childhood Center, including facsimile transmission and electronic submission through the Moody Early Childhood Center website.

Moody Early Childhood Center may designate one mailing address and one electronic mail address for receiving written requests for public information and shall provide the designated mailing address and electronic mail address to any person on request.

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

1. At one of those addresses;
2. By hand delivery; or
3. By a method that has been approved by Moody Early Childhood Center.

Gov't Code § 552.234.

c) Inquiry of Requestors

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

d) Location of Access

Moody Early Childhood Center complies with a request for public information by:

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

information by inspection or duplication or by receipt through the United States mail, as described above.

The TPIA does not authorize a requestor to remove an original copy of a public record from Moody Early Childhood Center.

Gov't Code § 552.221(b)-(b-2), .226.

e) Time for Response

Moody Early Childhood Center shall promptly produce public information for inspection, duplication, or both, on application by any person. “Promptly” means as soon as possible under the circumstances, that is, within a reasonable time, without delay.

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

If the requested information is unavailable because it is in storage or active use, the officer for public information or designee shall certify this fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

Gov't Code § 552.221.

f) Requests to Clarify or Narrow

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

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

g) Time for Examination

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

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

The time during which a person may examine information may be interrupted by Moody Early Childhood Center if the information is needed for use by Moody Early Childhood Center. The period of interruption is not considered to be a part of the time during which the person may examine the information.

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

Gov't Code § 552.221(e), .225.

h) Electronic Data

If public information exists in an electronic or magnetic medium, the requestor may request a copy in an electronic medium, such as on diskette or on magnetic tape. Moody Early Childhood Center shall provide a copy in the requested medium:

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

If Moody Early Childhood Center is unable to comply with a request to produce a copy of information in a requested medium for any of these reasons, Moody Early Childhood Center shall provide a copy in another medium that is acceptable to the requestor. Moody Early

Childhood Center is not required to copy information onto a diskette or other material provided by the requestor but may use Moody Early Childhood Center supplies.

Gov't Code § 552.228.

i) Requests Requiring Programming or Manipulation of Data

Moody Early Childhood Center shall provide the requestor a written statement, described below, if Moody Early Childhood Center determines:

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

The written statement shall include:

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

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

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

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

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

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

Gov't Code § 552.231.

j) Repetitious or Redundant Requests

If Moody Early Childhood Center determines that a requestor has made a request for information for which Moody Early Childhood Center has previously furnished or made copies available to the requestor, Moody Early Childhood Center may:

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

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

Gov't Code § 552.232(a), (d).

k) Procedures

Moody Early Childhood Center shall, free of charge, certify to the requestor that copies of all or part of the requested information were previously furnished or made available to the requestor. The certification must include:

1. A description of the information for which copies have been previously furnished or made available to the requestor;
2. The date Moody Early Childhood Center received the requestor's original request for that information;

3. The date Moody Early Childhood Center previously furnished copies or made available copies of the information to the requestor;
4. A certification that no subsequent additions, deletions, or corrections have been made to that information; and
5. The name, title, and signature of the officer for public information or agent making the certification.

Gov't Code § 552.232(b), (c).

l) Requests for Contracting Information Not Maintained by Moody Early Childhood Center

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

SEC. 7. ATTORNEY GENERAL DECISIONS

a) Request for Attorney General Decision

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

b) Time for Request

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

c) Calculating Timelines

For the purposes of requesting an Attorney General decision, if Moody Early Childhood Center receives a written request by United States mail and cannot adequately establish the actual date

of receipt, the request is considered to have been received by Moody Early Childhood Center on the third business day after the date of the postmark on a properly addressed request. *Gov't Code § 552.301(a-1)*.

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

d) Previous Determinations

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

Moody Early Childhood Center may rely on a previous determination by the Attorney General regarding a specific, clearly delineated category of information if:

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

Moody Early Childhood Center shall notify the requestor in writing of the decision or ruling upon which it is relying if it relies on any previous determination to withhold information from disclosure.

Moody Early Childhood Center may withhold from public disclosure the categories of records listed at Texas Attorney General Open Records Decision 684 (2009).

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

e) Statement to Requestor

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

1. A written statement that Moody Early Childhood Center wishes to withhold the requested information and has asked for a decision from the Attorney General about whether the information is within an exception to public disclosure; and
2. A copy of Moody Early Childhood Center's written communication to the Attorney General asking for the decision. If Moody Early Childhood Center's written communication to the Attorney General discloses the requested information, Moody Early Childhood Center shall provide a redacted copy of that written communication.

Gov't Code § 552.301(d).

f) Submission to Attorney General

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

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

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

Gov't Code § 552.301(e), (e-1).

Unless the information is confidential by law, Moody Early Childhood Center may disclose the requested information to the public or the requestor before a final determination that the

information is public has been made by the Attorney General or a court with jurisdiction. *Gov't Code § 552.303(a)*.

g) Additional Information

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

h) Privacy or Property Interests

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

i) Notice to Owner of Proprietary Information

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

1. Be sent within a reasonable time not later than the 10th business day after Moody Early Childhood Center receives the request for information; and
2. Include:
 - a. A copy of any written request Moody Early Childhood Center received for the information; and
 - b. A statement, in the form prescribed by the Attorney General, that the person is entitled to submit to the Attorney General, not later than the 10th business day after the person receives the notice, a written statement of the reason(s) why the

information should be withheld and a letter, memorandum, or brief supporting the reason(s).

Gov't Code § 552.305(d).

SEC. 8. CHARGES REGARDING TPIA REQUESTS

a) Costs and Charges

The charge for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the information, including costs of materials, labor, and overhead. The charges shall not be excessive and shall not exceed the actual cost of producing the information or for making public information that exists in a paper record available. Charges for providing a copy of public information are considered to accrue at the time Moody Early Childhood Center advises the requestor that the copy is available on payment of the applicable charges.

i. 50 Pages or Fewer

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

ii. Statement of Labor Costs

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

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

iii. Attorney General's Rules

Moody Early Childhood Center shall use the Attorney General's rules to determine the charges for providing copies of public information and to determine the charge, deposit, or bond required

for making public information that exists in a paper record available for inspection, except to the extent that other law provides for charges for specific kinds of public information.

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

iv. Exemptions

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

v. Copies for Parents

Moody Early Childhood Center may charge a reasonable fee in accordance with the above requirements for copies of materials provided to parents pursuant to Education Code 26.012.

vi. Statement of Estimated Charges

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

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

vii. Requestor's Response

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

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

viii. Actual Charges

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

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

ix. Timing of Deadlines

An original or updated itemized statement is considered to have been sent by Moody Early Childhood Center, and a requestor is considered to have responded to the statement, on the date that the statement or response is:

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

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

Gov't Code § 552.2615.

b) Deposit or Bond

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

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

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

Gov't Code § 552.263(a), (b).

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

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

i. Modified Request

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

ii. Unpaid Amounts

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

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

iii. Documentation of Unpaid Amounts

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

iv. Waivers

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

*c) **Government Publications***

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

SEC. 9. INSPECTION OF PUBLIC INFORMATION

*a) **Inspection of Public Information***

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

i. Confidential Information

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

ii. Payment, Deposit, or Bond

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

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

Gov't Code § 552.271(c).

If Moody Early Childhood Center has fewer than 16 full-time employees, the payment, deposit, or bond may be required only if:

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

Gov't Code § 552.271(d).

b) Electronic Records

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

If public information exists in an electronic form on a computer owned or leased by Moody Early Childhood Center, and the public has direct access to that computer through a computer network or other means, the electronic form of the information may be electronically copied from that computer without charge if accessing the information does not require processing, programming, or manipulation on Moody Early Childhood Center's computer before the information is copied. If such information does require processing, programming, or manipulation before it can be copied, Moody Early Childhood Center may impose charges.

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

Gov't Code § 552.272.

SEC. 10. TEMPORARY SUSPENSION OF TPIA DUE TO CATASTROPHE

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

“Catastrophe” means a condition or occurrence that directly interferes with the ability of Moody Early Childhood Center to comply with the TPIA’s requirements, including:

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

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

“Suspension period” means the period of time during which Moody Early Childhood Center may suspend the applicability of the TPIA’s requirements.

a) Initial Suspension Period

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

1. Begins not earlier than the second day before the date Moody Early Childhood Center submits notice to the Attorney General; and
2. Ends not later than the seventh day after the date Moody Early Childhood Center submits that notice.

b) Extension of Initial Suspension Period

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

c) Informing the Attorney General

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

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

d) Informing the Public

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

e) Requests Received During a Suspension Period

A request for public information received by Moody Early Childhood Center during a suspension period is considered to have been received by Moody Early Childhood Center on the first business day after the date the suspension period ends.

f) Pending Requests Tolloed During a Suspension Period

A TPIA request received by Moody Early Childhood Center before the date an initial suspension period begins is tolloed until the first business day after the date the suspension period ends.

Gov't Code § 552.233.

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

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

Tex. Gov't Code §552.2211.

SEC 12. MISCELLANEOUS

a) Limit on Personnel Time for Large or Frequent Requests

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

i. Request by Minor

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

ii. Exception

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

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

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

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

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

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

iii. Written Statement of Personnel Time

Each time Moody Early Childhood Center complies with a request for public information, Moody Early Childhood Center shall provide the requestor with a written statement of the amount of personnel time spent complying with that request and the cumulative amount of time spent complying with requests for public information from that requestor during the applicable monthly or yearly period. The amount of time spent preparing the written statement may not be included in the amount of time in the statement.

iv. Written Estimate of Charges

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

When a request is made by a requestor who has made a previous request to Moody Early Childhood Center that has not been withdrawn, for which Moody Early Childhood Center has

located and compiled documents in response, and for which Moody Early Childhood Center has issued a written estimate of charges that remains unpaid on the date the requestor submits the new request, Moody Early Childhood Center is not required to locate, compile, produce, or provide copies of documents or prepare an estimate of charges in response to a new request until the date the requestor pays each unpaid statement issued in connection with a previous request or withdraws the previous request to which the statement applies.

v. *Additional Time*

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

vi. *Acceptance of Charges*

If Moody Early Childhood Center provides a requestor with the estimate of charges and the time limits regarding the requestor have been exceeded, Moody Early Childhood Center is not required to produce public information for inspection or duplication or to provide copies of public information in response to the requestor's request unless on or before the 10th day after the date Moody Early Childhood Center provided the written estimate, the requestor submits payment of the amount stated in the written estimate. If the requestor fails or refuses to submit payment, the requestor is considered to have withdrawn the request.

vii. *Waived or Reduced Charges*

This section does not prohibit Moody Early Childhood Center from providing a copy of public information without charge or at a reduced rate, or from waiving a charge for providing a copy of public information, under Government Code 552.267.

Gov't Code § 552.275.

b) Filing Suit to Withhold Information

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

Moody Early Childhood Center must bring the suit not later than the 30th calendar day after Moody Early Childhood Center receives the Attorney General's decision. If Moody Early Childhood Center wishes to preserve an affirmative defense for its officer for public information,

as provided by Government Code 552.353(b)(3), Moody Early Childhood Center must file suit not later than the 10th calendar day after receipt of the Attorney General’s decision.

Gov’t Code §§ 552.324, .353(b)(3).

c) Parent’s Request for Information

Moody Early Childhood Center shall comply with a TPIA request upon receipt of a request from a parent for public information relating to the parent’s child.

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

Gov’t Code § 26.0085.

PART I: BOARD MEETINGS IN GENERAL

SEC. 1. DEFINITIONS

a) *Deliberation*

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

b) *Meeting*

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

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

Gov’t Code 551.001(4)

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

The term “meeting” does not include:

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

is incidental to the social function, convention, workshop, ceremonial event, press conference, forum, appearance, or debate.

Gov't Code 551.001(4).

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

c) Recording

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

d) Videoconference Call

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

SEC. 2. SUPERINTENDENT PARTICIPATION

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

SEC. 3. MEETINGS OPEN TO THE PUBLIC

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

SEC. 4. PROHIBITED COMMUNICATIONS BETWEEN BOARD MEMBERS

A Board member commits an offense if the member:

1. Knowingly engages in at least one communication among a series of communications that each occur outside of a meeting authorized by the Open Meetings Act and that concern an issue within the jurisdiction of the Board in which the members engaging in

- the individual communications constitute fewer than a quorum of members, but the members engaging in the series of communications constitute a quorum of members; and
2. Knew at the time the member engaged in the communication that the series of communications:
 - a. Involved or would involve a quorum; and
 - b. Would constitute a deliberation once a quorum of members engaged in the series of communications.

Gov't Code 551.143.

SEC. 5. RECORDING OPEN MEETINGS

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

SEC. 6. MEETING MINUTES

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

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

SEC. 7. NOTICE REQUIRED

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

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

a) Questions from the Public During Meeting

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

b) Time of Notice and Accessibility

Notice of a Board meeting shall be posted on a bulletin board at a place convenient to the public in the Main Office for at least 72 hours before the scheduled time of the meeting. That notice or a notice posted at another Board-designated place shall at all times be readily accessible to the public for at least 72 hours before the scheduled time of the meeting. *Gov't Code 551.043(a), .051.*

If Moody Early Childhood Center is required to post notice of a meeting on the Internet, Moody Early Childhood Center satisfies the requirement that the notice must be posted in a place readily accessible to the general public at all times by making a good-faith attempt to continuously post the notice on the Internet during the prescribed period.

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

c) Internet Posting of Agenda/Notice

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

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

The validity of a posting by Moody Early Childhood Center in a good-faith attempt to comply with the Internet posting requirements is not affected by a failure to comply that is due to a technical problem beyond Moody Early Childhood Center's control. *Gov't Code 551.056.*

d) Specificity of Agenda/Notice

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

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

The subject of a report or update by Moody Early Childhood Center staff or a Board member must be set out in the notice in a manner that informs a reader about the subjects to be addressed.

e) Emergency Meeting or Emergency Agenda Additions

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

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

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

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

1. An imminent threat to public health and safety, including a threat described in item 2 below, if imminent; or
2. A reasonably unforeseeable situation, including:
 - a. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
 - b. Power failure, transportation failure, or interruption of communication facilities;
 - c. Epidemic; or

- d. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

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

The sudden relocation of a large number of residents from the area of a declared disaster within Moody Early Childhood Center’s geographic boundaries is considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation.

Gov’t Code 551.045.

f) Catastrophe

If the Board is prevented from convening an open meeting that was otherwise properly posted under Government Code Section 551.041 because of a catastrophe, the Board may convene the meeting in a convenient location within 72 hours pursuant to Government Code Section 551.045 if the action is taken in good faith and not to circumvent Government Code Chapter 551. If the Board is unable to convene the open meeting within those 72 hours, the Board may subsequently convene the meeting only if the board gives the required written notice of the meeting.

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

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

Gov’t Code 551.0411(b), (c).

g) Notice to News Media

Moody Early Childhood Center shall provide special notice of each meeting by telephone, facsimile transmission, or electronic mail to any news media that has requested special notice and agreed to reimburse Moody Early Childhood Center for the cost of providing the special notice. *Gov’t Code 551.052.*

The Board President or other Board member who calls an emergency meeting or adds an emergency item to the agenda of a Board meeting shall notify the news media of the emergency

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

SEC. 8. QUORUM

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

SEC. 9. SECRET BALLOT

No vote shall be taken by secret ballot.

SEC. 10. MEETING BY TELEPHONE CONFERENCE CALL

The Board may hold a meeting by telephone conference call if an emergency or public necessity exists within the meaning of Government Code 551.045 and the convening at one location of a quorum of the Board is difficult or impossible, or if the meeting is held by an advisory board.

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

a) *Notice*

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

b) *Recording*

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

Gov't Code 551.125.

SEC. 11. MEETING BY VIDEOCONFERENCE CALL

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

a) Requirement for Quorum

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

b) Multiple Counties

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

c) Notice of Videoconference Meeting

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

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

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

d) Quality of Audio and Video Signals During Videoconference Meetings

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

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

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

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

e) Recording Meetings by Videoconference

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

f) Public Participation During Meetings by Videoconference

The Board may allow a member of the public to testify at a meeting from a remote location by videoconference call even if a Board member is not participating in the meeting from a remote location.

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

SEC. 12. VIDEO AND AUDIO RECORDING OF MEETING

If Moody Early Childhood Center has a student enrollment of 10,000 or more, the Board shall make a video and audio recording of reasonable quality of each:

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

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

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

If Moody Early Childhood Center maintains an Internet site, Moody Early Childhood Center shall make available on that site, in a conspicuous manner, the archived recording of each meeting or an accessible link to the archived recording of each such meeting.

Gov't Code 551.128(b-1)–(b-6).

SEC. 13. INTERNET BROADCAST

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

SEC. 14. ATTORNEY CONSULTATION

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

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

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

Gov't Code 551.129.

SEC. 15. HEARING-IMPAIRED PERSONS

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

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

Gov't Code 558.001, .003.

PART II: CLOSED MEETINGS

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

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

1. Consultation with the Board’s attorney in accordance with Gov’t Code § 551.071;
2. Deliberations regarding the purchase, exchange, lease, or value of real property in accordance with Gov’t Code § 551.072;
3. Deliberations regarding a negotiated contract for a prospective gift or donation to <<Charter Holder>> in accordance with Gov’t Code § 551.073;
4. Deliberations regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a Moody Early Childhood Center officer or employee or to hear a complaint against a Moody Early Childhood Center officer or employee, in accordance with Gov’t Code § 551.074;

5. Deliberations regarding the deployment, or specific occasions for implementation, of security personnel or devices or a security audit, in accordance with Gov't Code § 551.076;
6. Deliberations in matters involving certain information regarding insurance, health, or retirement plans, in accordance with Gov't Code 551.0785;
7. Deliberations in a case in which a complaint or charge is brought against a Moody Early Childhood Center employee by another Moody Early Childhood Center employee and the complaint or charge directly results in the need for a hearing in accordance with Gov't Code § 551.082;
8. Deliberations in a case involving discipline of a Moody Early Childhood Center student in accordance with Gov't Code § 551.082;
9. Deliberations in a matter regarding a student if personally identifiable information about the student will necessarily be revealed by the deliberation in accordance with Gov't Code § 551.0821;
10. Excluding a witness from a hearing during the examination of another witness in an investigation in accordance with Gov't Code § 551.084;
11. Deliberations to discuss or deliberate regarding economic development negotiations in accordance with Gov't Code § 551.087;
12. Deliberations regarding security assessments or deployment relating to information resources technology; network security information as described by Gov't Code 2059.055(b); or the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices, in accordance with Gov't Code § 551.089; and
13. Deliberations to discuss or adopt individual assessment instruments or assessment instrument items in accordance with Education Code 39.030(a).

SEC. 2. PROCEDURES FOR CLOSED MEETINGS

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

SEC. 3. VOTE OR FINAL ACTION IN OPEN SESSION

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

SEC. 4. CERTIFIED AGENDA OR RECORDING

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

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

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

a) *Preservation*

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

b) *Public Access*

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

SEC. 5. PROHIBITIONS

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

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

No Board member shall knowingly call or aid in calling or organizing a closed meeting that is not permitted under the Open Meetings Act, close or aid in closing a regular meeting to the

public except as permitted under the Open Meetings Act, or participate in a closed meeting that is not permitted under the Open Meetings Act. *Gov't Code 551.144(a)*.

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

PART III: PUBLIC PARTICIPATION IN BOARD MEETINGS

SEC. 1. RIGHT TO PUBLIC PARTICIPATION

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

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

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

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

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

SEC. 2. PUBLIC COMMENT

The Board shall allow each member of the public who desires to address the Board regarding an item on an agenda for an open meeting of the Board to address the Board regarding the item at the meeting before or during the Board's consideration of the item. At all other times during a

Board meeting, the audience shall not enter into discussion or debate on matters being considered by the Board, unless requested by the presiding officer.

a) Time Limits

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

b) Additional Time for Translation

A member of the public who addresses the Board through a translator must be given at least twice the amount of time as a member of the public who does not require the assistance of a translator in order to ensure that non-English speakers receive the same opportunity to address the Board. This requirement applies only if the Board does not use simultaneous translation equipment in a manner that allows the Board to hear the translated public testimony simultaneously.

c) Public Criticism

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

Gov't Code § 551.007.

d) Board's Response

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

SEC. 3. COMPLAINTS AND CONCERNS

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

Employee complaints: Board Policy PG-4.24 (Employee Complaints and Grievances – General).

Student or parent complaint: Board Policy PG-3.30 (Parent and Student Complaints and Grievances – General).

Complaints alleging discrimination, harassment, and/or retaliation: Board Policy PG-4.2 (Freedom from Discrimination, Harassment, and Retaliation); Board Policy PG-4.2 (Sexual Harassment).

Complaints concerning identification, evaluation, or educational placement of a student with a disability within the scope of Section 504: Board Policy PG-3.30 (Parent and Student Complaints and Grievances), subject to the time limitations referenced in Board Policy PG-3.1 (Equal Educational Opportunity).

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

Public complaints: Board Policy PG-1.10 (Public Complaints).

SEC. 4. DISRUPTION

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

SEC. 1. MOODY EARLY CHILDHOOD CENTER PROPERTY GENERALLY

The Board of Moody Early Childhood Center shall be the final authority for authorizing the use of Public Property. Moody Early Childhood Center shall not authorize use or application of public property inconsistent with this policy.

SEC. 2. PUBLIC PROPERTY DEFINED

An interest in real estate or personal property acquired, improved, or maintained using state funds that were received by Moody Early Childhood Center on or after September 1, 2001 is public property for all purposes under state law. The date on which the property was acquired, improved, or maintained is not determinative. An interest in real estate acquired, improved, or maintained using state funds that were received by the charter holder before September 1, 2001, is public property only to the extent specified by 19 TAC § 100.1065 (relating to Property Acquired with State Funds Received Before September 1, 2001–Special Rules). Where the property is acquired with federal funds, federal law may preempt this policy and state law in whole or part.

SEC. 3. FIDUCIARY RESPONSIBILITIES

Public property is held by Moody Early Childhood Center in trust for the benefit of Moody Early Childhood Center’s students. With respect to the public property they manage, the Board and officers of Moody Early Childhood Center and Moody Early Childhood Center are trustees under Texas law and the students enrolled in Moody Early Childhood Center are beneficiaries of a trust. Each trustee shall be held to the standard of care and fiduciary duties that a trustee owes the beneficiary of a trust under Texas law.

Public property may be used only for a purpose for which a school district may use school district property, implementing a program described in Moody Early Childhood Center’s open-enrollment charter and only to implement a program that is described in the open-enrollment charter and is consistent with law and Rule.

Notwithstanding the delegation of authority, the Board and officers of Moody Early Childhood Center and Moody Early Childhood Center shall remain fully responsible to authorize all uses and applications of public property and to enforce this policy.

SEC. 4. PERSONAL USE OF PUBLIC PROPERTY

In compliance with Commissioner of Education Rule, Moody Early Childhood Center employees shall use Moody Early Childhood Center public property only for purposes described in the Moody Early Childhood Center charter.

Moody Early Childhood Center employees may, however, use local telephone service, Moody Early Childhood Center-issued cellular phones, electronic mail, Internet connections, and similar property for incidental personal use, provided that such personal use does not, as determined by the Moody Early Childhood Center administration, impede Moody Early Childhood Center functions or result in direct cost(s) paid with state funds. Should employee use result in direct cost paid with state funds, Moody Early Childhood Center shall require the employee incurring the cost(s) to reimburse Moody Early Childhood Center for such cost(s) within five business days of Moody Early Childhood Center's having incurred the cost(s).

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

This policy does not authorize incidental personal use of public property for private commercial purposes. Any such incidental use of public property is a privilege not a right, and the Moody Early Childhood Center administration may remove or rescind such privilege from time to time on a case-by-case basis for any employee, or all employees.

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

Joint use of Moody Early Childhood Center's public real property for charter and non-charter activities shall be approved by separate vote and recorded in the minutes of the meeting of the Board of Moody Early Childhood Center, setting forth the methodology to be used to allocate shared costs and the percentage allocation basis between charter and non-charter activities.

SEC. 6. CONTRACT FOR USE OF PUBLIC PROPERTY

Moody Early Childhood Center may contract for the use of its property for the purpose of providing goods or services under the contract, if such use is an express contract term, factored into the price of the contract, and the contract is one that is authorized by the Board.

SEC. 7. ACCOUNTING FOR PUBLIC PROPERTY

Moody Early Childhood Center's annual audit report shall separately disclose the cost basis and accumulated depreciation of public or privately held or owned property held, acquired, improved, or maintained by Moody Early Childhood Center's operating Board and charter holder, or provide with the annual audit report a statement that all property acquired, improved, or maintained during the term of Moody Early Childhood Center's charter, and all property presently held by the charter holder Board, is public property.

SEC. 8. RETURN OF MOODY EARLY CHILDHOOD CENTER PROPERTY

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

The cost of repairing or replacing any supplies, materials, or equipment belonging to Moody Early Childhood Center, or other property that is damaged (other than normal wear and tear), stolen, or lost by an employee or that is not returned to Moody Early Childhood Center upon separation of employment may be deducted from the employee's wages, so long as the deduction does not take the employee's pay below minimum wage or, if the employee is a salaried employee, reduce the salary below its predetermined amount and so long as the employee has signed an appropriate wage deduction authorization form.

Any materials created by staff members for use by Moody Early Childhood Center, or created on Moody Early Childhood Center's time, or produced using the staff or resources of Moody Early Childhood Center, are considered works-for-hire and all intellectual property rights are vested exclusively in Moody Early Childhood Center.

SEC. 1. COMPLAINTS BY MEMBERS OF THE PUBLIC

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

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

SEC. 2. GENERAL RULES FOR COMPLAINTS

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

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

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

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

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

SEC. 3. FILING A COMPLAINT

a) General

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

b) Conferences

Moody Early Childhood Center shall make reasonable attempts to schedule conferences at a mutually aggregable time. If the individual fails to appear at a scheduled conference, Moody Early Childhood Center may issue a decision in the individual's absence.

c) Response

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

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

d) Consolidating Complaints

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

e) Days

The term "days" shall mean Moody Early Childhood Center business days. The day a document is filed is "day zero." The following school business day is considered "day one."

f) Representative

"Representative" means any person or organization that is designated by an individual to represent the individual in the complaint process.

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

g) Untimely Filings

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

h) Costs Incurred

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

i) Grievance Forms

Complaints and appeals under this policy shall be filed in writing on a form provided by Moody Early Childhood Center.

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

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

SEC. 4. COMPLAINTS AND APPEALS

a) Level One

Complaints must be filed:

1. Within ten days of the date the individual first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint; and
2. With the lowest level administrator who has authority to remedy the alleged problem.

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

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

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

b) Level Two

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

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

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

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

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

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

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

c) Level Three

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

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

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

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

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

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

Moody Early Childhood Center shall determine whether the complaint will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law.

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

The Board is Moody Early Childhood Center's final authority to hear or decide citizen complaints. *19 Tex. Admin. Code § 100.1033(13)(C)(i)*. Failure of the Board to take action on the complaint or schedule a complaint offered at Public Comments on a future agenda indicates the Board's approval of the decision below.

SEC. 5. FREEDOM FROM RETALIATION

Neither the Board nor any Moody Early Childhood Center employee shall unlawfully retaliate against any individual for bringing a concern or complaint.

SEC. 1. DEFINITIONS

- A. “Custodian” means the appointed or designated School official who is in charge of an office that creates or receives local government records.
- B. “Essential record” means any School record necessary to the resumption or continuation of operations of the School in an emergency or disaster, to the recreation of the legal and financial status of the School, or to the protection and fulfillment of obligations to the people of the state.
- C. “Local government record” or “Record” means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic media, or other information-recording media, regardless of physical form or characteristic, and regardless of whether public access to it is open or restricted under the laws of Texas, created or received by the School or any of its officers or employees, pursuant to law or in the transaction of public business. The term does not include:
1. Extra identical copies of documents created only for convenience of reference or research by School officers or employees;
 2. Notes, journals, diaries, and similar documents created by School officers or employees for the officer’s or employee’s personal convenience;
 3. Blank forms, stocks of publications, and library and museum materials acquired solely for purposes of reference or display; or
 4. Copies of documents in any media furnished to members of the public to which they are entitled under the Texas Public Information Act or other state law.
- D. “Permanent record” or “record of permanent value” means any record for which the retention period on a records retention schedule issued by the Texas State Library and Archives Commission is given as permanent.
- E. “Records control schedule” means a document prepared by or under the authority of a records management officer listing the records maintained by the School, their retention periods, and other records disposition information that the School records management program may require.
- F. “Records management” means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of record keeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographic and electronic and other records storage systems.

- G. “Records Management Officer” means the person designated in Section 4 of this policy.
- H. “Records Retention Schedule” means a document issued by the Texas State Library and Archives Commission (“TSLAC”) under authority of Subchapter J, Chapter 441, Government Code, establishing mandatory retention periods for local government records retained by the School.
- I. “Retention period” means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

Loc. Gov’t Code 201.003.

SEC. 2. DUTIES OF MOODY EARLY CHILDHOOD CENTER

MOODY EARLY CHILDHOOD CENTER shall:

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

Gov’t Code 441.169.

SEC. 3. DUTIES OF THE BOARD OF DIRECTORS

The Board of Directors (the “Board”) of the School shall:

1. Establish, promote, and support an active and continuing program for the efficient and economical management of all local government records;
2. Cause policies and procedures to be developed for the administration of the program under the direction of the Records Management Officer;
3. Facilitate the creation and maintenance of local government records containing adequate

and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the School and designed to furnish the information necessary to protect the legal and financial rights of the School, the state, and persons affected by the School's activities;

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

Loc. Gov't Code 203.021.

SEC. 4. RECORDS DECLARED PUBLIC PROPERTY

All local government records created or received in the transaction of official business or the creation or maintenance of which were paid for by public funds are public property. No School official or employee has, by virtue of his or her position, any personal or property right to such records, even though the officer or employee developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited. *Loc. Gov't Code 201.005.*

SEC. 5. CUSTODIANS OF RECORDS

Record custodians shall:

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

Loc. Gov't Code 203.022.

SEC. 6. RECORDS MANAGEMENT OFFICER

a) Requirements for Designating Records Management Officer

The Board shall designate an individual or an office or position as the School's Records Management Officer. The name, officer, or position of the Records Management Officer shall be entered into the minutes of the Board and filed by the Records Management Officer within the

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

Loc. Gov't Code 203.025.

b) Designation of Records Management Officer

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

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

c) Duties of Records Management Officer

The Records Management Officer shall:

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

Loc. Gov't Code 203.023.

SEC. 7. ESTABLISHMENT OF RECORDS MANAGEMENT COMMITTEE; DUTIES

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

Chief of Staff
Chief Financial Officer
Chief Talent Officer and/or Director of Talent
Special Education Manager
Strategic Planner

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

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

SEC. 8. RECORDS MANAGEMENT PROGRAM

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

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

SEC. 9. RECORDS CONTROL SCHEDULES

The Records Management Officer shall:

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

a) Amending Schedules

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

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

Loc. Gov't Code 203.041.

b) Retention Periods

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

c) TSLAC Retention Schedules

TSLAC has adopted the following retention schedules, among others:

Local Schedule GR – Records Common to All Governments

Local Schedule SD – Records for Public School Districts

These schedules establish mandatory minimum retention schedules for the records listed.

13 TAC 7.125.

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

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

- a. Cooperate with the Records Management Officer in carrying out the policies and procedures established by the School for the efficient and economical management of records and in carrying out the requirements of this policy;
- b. Adequately document the transaction of government business and the services, programs, and duties for which the department head, principal, and his or her staff are responsible; and
- c. Maintain the records in his or her care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the records management program of the School and the requirements of this policy.

SEC. 11. DESIGNATION OF RECORDS LIAISON OFFICERS

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

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

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

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

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

SEC. 12. DUTIES AND RESPONSIBILITIES OF RECORDS LIAISON OFFICERS

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

- a. Conduct or supervise the conduct of inventories of the records of the department in preparation for the development of records control schedules;
- b. In cooperation with the Records Management Officer, coordinate and implement the policies and procedures of the records management program in their department; and
- c. Disseminate information to department staff concerning the records management program.

SEC. 13. DESTRUCTION OF RECORDS

A School record may be destroyed if:

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

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

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

Loc. Gov't Code 202.001.

a) *Exceptions*

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

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

b) *Recordkeeping*

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As the board may require, the Records Management Officer shall keep accurate lists of records destroyed, their volume, and other information of records management activities. *Loc. Gov't Code 203.046.*

SEC. 14. RECORDS OFFENSES

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

SEC. 15. PRESERVATION OF RECORDS

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

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

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

SEC. 16. CONTRACT SERVICES

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

SEC. 17. SPECIAL RULES FOR EDUCATION RECORDS

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

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

with respect to special education records.

RECORDS RETENTION SCHEDULE

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

GR 1000-01 Agendas

Open meetings.

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

GR 1000-25 Contracts, Leases, and Agreements

(a) Open meetings

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

(b) Certified agendas of closed meetings.

RETENTION: Two (2) years.

GR 1000-03 Minutes

(a) Written minutes.

RETENTION: Permanent.

(b) Notes taken during meetings from which written minutes are prepared.

RETENTION: 90 days after approval of minutes by the governing body.

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

RETENTION: Permanent.

- (d) Audiotapes of workshop sessions of governing bodies in which votes are not made and written minutes are not required by law to be taken.
RETENTION: Two (2) years.
- (e) Audiotapes of open meetings for which written minutes are prepared.
RETENTION: 90 days after approval of minutes by the governing body.
- (f) Certified audiotapes of closed meetings.
RETENTION: Two (2) years.
- (g) Supporting documentation – One copy of each document of any type submitted to a meeting of a governing body for consideration, approval, or other action, if such action is reflected in the minutes of the meeting.
RETENTION: Two (2) years.

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

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

- (a) Administrative – Incoming/outgoing and internal correspondence pertaining to the formulation, planning, implementation, modification, or redefinition of the programs, services, or projects of a local government and the administrative regulations, policies, and procedures that govern them. May also include subject files, which are collections of correspondence, memos and printed materials on various individuals, activities, and topics.
RETENTION: Four (4) years.
- (b) General – Incoming/outgoing and internal correspondence pertaining to the regular operation of the policies, programs, services, or projects of a local government. May also include subject files, which are collections of correspondence, memos and printed materials on various individuals, activities, and topics.
RETENTION: Two (2) years.
- (c) Routine - Correspondence and internal memoranda such as letters of transmittal, requests for publications, internal meeting notices, and similar routine matters. May also include subject files, which are collections of correspondence, memos and printed materials on various individuals, activities, and topics.
RETENTION: AV (as long as administratively valuable)

GR 1075-01 Bids and Bid Documentation

- (a) Successful bids and requests for proposals, including invitations to bid, bid bonds and affidavits, bid sheets, and similar supporting documentation.

RETENTION: Fiscal year end + **five (5) years**.

Retention Note: If a formal written contract is the result of a successful bid or request for proposal, the successful bid or request for proposal and its supporting documentation must be retained for the same period as the contract. See item number GR1000-25.

- (b) Unsuccessful bids.

RETENTION: **Two (2) years**.

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

RETENTION: **One (1) year**.

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

RETENTION: **AV**

GR 1075-03 Purchase Order and Receipt Records

- (a) Purchase orders, requisitions, and receiving reports.

RETENTION: Fiscal year end + **five (5) years**

- (b) Purchasing log, register, or similar record providing a chronological record of purchase orders issued, orders received, and similar data on procurement status.

RETENTION: Fiscal year end + **three (3) years**

- (c) Packing slips and order acknowledgments.

RETENTION: **AV**

- (d) Vendor and commodity lists.

RETENTION: **Until superseded**

GR 1075-16 Construction Project Records

- (a) Records concerning the planning, design, construction, conversion, or modernization of local government-owned facilities, structures, and systems, including feasibility, screening, and implementation studies; topographical and soil surveys and reports; architectural and engineering drawings, elevations, profiles, blueprints, and as-builts; inspection and investigative reports; laboratory test reports; environmental impact

statements; construction contracts and bonds; correspondence; and similar documentation except as described in (b), (c) or (d).

RETENTION: Permanent.

Retention Note: If a structure, facility, or system is sold or transferred to another person or entity, the local government must retain the original records relating to its construction. Copies of the records may be given to the person or entity to which the structure, facility, or system is sold or transferred.

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

RETENTION: Completion of the project + **ten (10) years.**

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

RETENTION: Five (5) years.

(d) Line Locate Requests, Call Before You Dig records, or other similar records documenting requests for information regarding locations of the underground cable or utility lines.

RETENTION: Completion of project requiring the locate request + **two (2) years.**

SEC. 1. PROCEDURES FOR SCHOOL VISITORS

Notices shall be posted at each Moody Early Childhood Center campus requiring all visitors to first report to the campus administrative office. This policy shall apply to parents, board members, volunteers, social service workers, invited speakers, maintenance and repair persons not employed by Moody Early Childhood Center, vendors, representatives of the news media, former students, and any other campus visitors.

A visit by visitors to individual classrooms during instructional time requires prior approval of both the campus Principal and teacher whose class is to be visited. Such visits may not be approved or may be terminated where their duration or frequency interferes with the delivery of instruction or in any other way disrupts the educational environment.

Moody Early Childhood Center or the Principal may:

1. Require a visitor requesting entry onto a campus to show a driver's license or other form of identification issued by a governmental entity displaying the visitor's photograph.
2. Establish an electronic or paper database for storing campus visitor information. Information stored in the campus databases may be used only for purposes of Moody Early Childhood Center security, and may not be sold or otherwise disseminated to third parties.
3. Verify whether the visitor is a registered sex offender as identified in the computerized central database maintained by the Department of Public Safety, or in any other database accessible by Moody Early Childhood Center.

The Superintendent or designee, in conjunction with campus administrators, shall develop and implement procedures addressing campus visitors identified as registered sex offenders. These procedures shall include but are not limited to provisions dealing with:

1. Parental rights to visit;
2. Escorts by Moody Early Childhood Center personnel;
3. Access to common areas of the campus;
4. Access to classrooms;
5. Drop off and release of students; and
6. Eligibility to serve as volunteers.

SEC. 2. NOTICE OF ENTRY BY REGISTERED SEX OFFENDERS

A registered sex offender who enters Moody Early Childhood Center premises (meaning a building or portion of a building and the grounds on which the building is located, including any public or private driveway, street, sidewalk or walkway, parking lot, or parking garage on the grounds) during standard operating hours of the school shall immediately notify the administrative office of the school of the person's presence on the premises of the school and the

person's registration status. The office may provide a chaperone to accompany the person while the person is on the premises of the school.

These requirements do not apply to:

1. A student enrolled in Moody Early Childhood Center;
2. A student from another school participating in an event at Moody Early Childhood Center; or
3. A person who has entered into a written agreement with Moody Early Childhood Center that exempts the person from these requirements.

SEC. 3. VISITOR CONDUCT

Moody Early Childhood Center invites and welcomes parents and other members of the public to its schools. Moody Early Childhood Center is committed to treating parents and other community members with respect and expects the same in return. To that end, Moody Early Childhood Center must keep schools and administrative offices free from disruptions and prevent unauthorized persons from entering the schools and school grounds.

Accordingly, this policy promotes mutual respect, civility, and orderly conduct among Moody Early Childhood Center employees, parents, students, volunteers and the public. Moody Early Childhood Center seeks to maintain to the extent possible and reasonable, a safe, harassment-free workplace for students and staff. In the interest of presenting teachers and other employees as positive role models, Moody Early Childhood Center encourages positive communication and discourages volatile, hostile, or aggressive actions. Moody Early Childhood Center seeks and encourages patrons to cooperate with this endeavor.

Moody Early Childhood Center recognizes the importance of employees, students, and parents engaging, collaborating, and sharing in digital environments. Accordingly, the use of technology on Moody Early Childhood Center property and at school-sponsored events shall be appropriate, not disruptive to the educational environment, and not detrimental to the safety of employees and students. It must also be in compliance with other applicable Moody Early Childhood Center policies.

An individual engaging in disruptive behavior shall be required to leave Moody Early Childhood Center property. Any individual who disrupts or threatens to disrupt school or office operations, threatens the health and safety of students or staff, willfully causes property damage, uses loud and/or offensive language that could provoke a violent reaction, or who has otherwise established a pattern of unauthorized entry on Moody Early Childhood Center property shall be directed to leave Moody Early Childhood Center property by the Principal or other administrator. In certain circumstances, a criminal trespass warning may also be issued or law enforcement contacted.

SEC. 4. ACCESS TO STUDENTS BY MILITARY RECRUITERS

To the extent Moody Early Childhood Center receives assistance under the ESEA, Moody Early Childhood Center shall provide military recruiters the same access to secondary students as is generally provided to institutions of higher education or to prospective employers of those students. *20 U.S.C. § 7908(a)(3)*.

Except as allowed under Education Code § 29.9015(d) or (e), Moody Early Childhood Center shall each year provide students in grades 10 through 12 an opportunity to take the Armed Services Vocational Aptitude Batter test and consult with a military recruiter. *Education Code § 29.9015(a)*.

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POLICY GROUP 4 – PERSONNEL
BOARD MEMBERS TECHNOLOGY RESOURCES AND ELECTRONIC COMMUNICATIONS PG- 1.14

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

SEC. 1.14.1. AVAILABILITY OF ACCESS

Access to **Moody Early Childhood Center**’s technology resources, including the internet, shall be made available to Board members primarily for official duties and in accordance with administrative regulations.

SEC. 1.14.2. LIMITED PERSONAL USE

Limited personal use of Moody Early Childhood Center’s technology resources shall be permitted if the use:

1. Imposes no tangible cost on Moody Early Childhood Center; and
2. Does not unduly burden Moody Early Childhood Center’s technology resources.

SEC. 1.14.3. ACCEPTABLE USE

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

SEC. 1.14.4. MONITORED USE

Sec. 1.14.5. Electronic mail transmissions and other use of Moody Early Childhood Center’s technology resources by a Board member shall not be considered private. The Superintendent or designee shall be authorized to monitor Moody Early Childhood Center’s technology resources at any time to ensure appropriate use.

SEC. 1.14.6. DISCLAIMER OF LIABILITY

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

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SEC. 1.14.7. RECORDS RETENTION

A Board member shall retain electronic records, whether created or maintained using Moody Early Childhood Center’s technology resources or using personal technology resources, in accordance with Moody Early Childhood Center’s record management program.

SEC. 1. SCHOOL WEBSITE

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

SEC. 2. WEBSITE ACCESSIBILITY

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

SEC. 3. PLAN FOR ONLINE CONTENT

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

1. the World Wide Web Consortium’s (W3C’s) Web Content Accessibility Guidelines (WCAG) 2.0 Level AA; and
2. the Web Accessibility Initiative Accessible Rich Internet Applications Suite (WAI-ARIA) 1.0 for web content.

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

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

SEC. 4. MONITORING

The Business Department or designee will perform an accessibility audit at least once per year. All web pages housed and distributed through the Moody Early Childhood Center website will be measured against the W3C's WCAG 2.0 Level AA standards. The content owner/editor will have the option to either fix the issue within 30 days or remove the page or element that does not meet the applicable accessibility standard.

Moody Early Childhood Center may also engage an outside auditor to conduct the annual accessibility audit.

SEC. 5. TRAINING

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

SEC. 6. WEBSITE ASSISTANCE

An individual having difficulty accessing information on the Moody Early Childhood Center website may contact the Business Department or designee to report accessibility issues. The individual should provide the following information to Moody Early Childhood Center:

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

Additionally, any individual may submit a written complaint or grievance related to the accessibility of the Moody Early Childhood Center website through the process outlined in Board Policy PG-1.10 (Public Complaints). A complaint should be filed within the timeframe referenced in Board Policy PG-1.10 (Public Complaints).

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

SEC. 1. MULTIHAZARD EMERGENCY OPERATIONS PLAN

a) General Plan Requirements

Moody Early Childhood Center shall adopt and implement a multihazard emergency operations plan (MEOP) for use in Moody Early Childhood Center’s facilities. The MEOP must address prevention, mitigation, preparedness, response, and recovery as defined by the Texas School Safety Center (TSSC) in conjunction with the governor’s office of homeland security and the Commissioner of Education. The MEOP must provide for:

1. Training in responding to an emergency for Moody Early Childhood Center employees, including substitute teachers;
2. Measures to ensure Moody Early Childhood Center employees, including substitute teachers, have classroom access to a telephone, including a cellular telephone, or another electronic communication device allowing for immediate contact with emergency services or emergency services agencies, law enforcement agencies, health departments, and fire departments;
3. Measure to ensure Moody Early Childhood Center’s communications technology and infrastructure are adequate to allow for communication during an emergency;
4. Mandatory or required drills and exercises, including those required under Education Code 37.114, to prepare staff and students for responding to an emergency;
5. Measures to ensure coordination with the Department of State Health Services (DSSH) and local emergency management agencies, law enforcement, health departments, and fire department in the event of an emergency; and
6. The implementation of a safety and security audit as required by Education Code 37.108(b).

Education Code 37.108(a).

The MEOP shall also include:

1. A chain of command that designates the individual responsible for making final decisions during a disaster or emergency situation and identifies other individuals responsible for making those decisions if the designated person is unavailable;
2. Provisions that address physical and psychological safety for responding to a natural disaster, active shooter, and any other dangerous scenario identified by the Texas Education Agency (TEA) or TSSC;
3. Provisions for ensuring the safety of students in portable buildings;
4. Provisions for ensuring that students and Moody Early Childhood Center personnel with disabilities are provided equal access to safety during a disaster or emergency situation;
5. Provisions for providing immediate notification to parents, guardians, and other persons standing in parental relation in circumstances involving a significant threat to the health

- or safety of students, including identification of the individual with responsibility for overseeing the notification;
6. Provisions for supporting the psychological safety of students, Moody Early Childhood Center personnel, and the community during the response and recovery phase following a disaster or emergency situation that:
 - a. Are aligned with best practice-based programs and research-based practices recommended under Health & Safety Code 161.325;
 - b. Include strategies for ensuring any required professional development training for suicide prevention and grief-informed and trauma-informed care is provided to appropriate school personnel;
 - c. Include training on integrating psychological safety and suicide prevention strategies into the emergency operations plan, such as psychological first aid for schools training, from an approved list of recommended training established by the Commissioner and TSSC for (i) members of Moody Early Childhood Center’s school safety and security committee under Education Code 37.109; (ii) Moody Early Childhood Center counselors and mental health professionals; and (iii) educators and other personnel as determined by Moody Early Childhood Center;
 - d. Include strategies and procedures for integrating and supporting physical and psychological safety that align with the provisions described by in item (2) above; and
 - e. Implement trauma-informed policies;
 7. A policy for providing a substitute teacher access to school campus buildings and materials necessary for the substitute teacher to carry out the duties of a Moody Early Childhood Center employee during an emergency or a mandatory emergency drill;
 8. The name of each individual on the school safety and security committee established under Education Code 37.109 and the date of each committee meeting during the preceding year;
 9. Provisions for responding to a train derailment, but only if a school is located within 1,000 yards of a railroad track as measured from any point on Moody Early Childhood Center’s real property boundary line; and
 10. Provisions for responding to an active shooter emergency.

Moody Early Childhood Center may use any available community resources in developing the MEOP.

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

b) MEOP Review

Moody Early Childhood Center shall submit its MEOP to the TSSC upon request and as required with the TSSC review cycle developed under Education 37.2071(a).

i. Noncompliance Notification

The TSSC shall review the Moody Early Childhood Center MEOP and verify that the plan meets the requirements of Education Code 37.108 or provide Moody Early Childhood Center with written notice describing the plan’s deficiencies and stating that the deficiencies must be corrected and that Moody Early Childhood Center must resubmit the revised plan to the TSSC.

If Moody Early Childhood Center fails to submit its MEOP to the TSSC, the TSSC shall provide Moody Early Childhood Center with written notice stating that Moody Early Childhood Center has failed to submit a plan and must submit a plan for review and verification.

ii. Failure to Comply after Notice

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

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

*c) **Public Hearing due to Noncompliance***

If Moody Early Childhood Center receives notice of noncompliance for reasons identified under Education Code 37.207(e) or 37.2071(g), the Board shall hold a public hearing to notify the public of:

1. Moody Early Childhood Center’s failure to submit or correct deficiencies in a MEOP or report the results of a safety and security audit to the TSSC as required by law;
2. The dates during which Moody Early Childhood Center has not been in compliance; and
3. The names of each Board member and the Superintendent serving in that capacity during the dates Moody Early Childhood Center was not in compliance. Moody Early Childhood Center shall provide this information in writing to each person at the hearing.

The Board shall give members of the public a reasonable opportunity to appear before the Board and to speak on the issue of Moody Early Childhood Center’s failure to submit or correct deficiencies in a MEOP. Moody Early Childhood Center shall submit written confirmation to the TSSC that the public hearing was held.

Education Code 37.2071.

*d) **Disclosure of MEOP Documents***

A document relating to the Moody Early Childhood Center MEOP is subject to disclosure if the disclosure allows a person to:

1. Verify that Moody Early Childhood Center has established a MEOP and determine the agencies involved in the development of the plan and the agencies coordinating with Moody Early Childhood Center to respond to an emergency, including the DSHS, local emergency services agencies, law enforcement agencies, health departments, and fire departments;
2. Verify that the MEOP was reviewed within the last 12 months and determine the specific review dates;
3. Verify that the MEOP addresses the phases of emergency management plans under Education Code 37.108(a);
4. Verify that Moody Early Childhood Center employees have been trained to respond to an emergency and determine the types of training, the number of employees trained, and the person conducting the training;
5. Verify that each campus has conducted mandatory emergency drills and exercises in accordance with the plan and determine the frequency of the drills;
6. To the extent required by law, verify that the MEOP has established a plan for responding to a train derailment;
7. Verify that Moody Early Childhood Center has completed a safety and security audit and determine the date the audit was conducted, the person conducting the audit, and the date the audit results were presented to the Board;
8. Verify that Moody Early Childhood Center has addressed any recommendations by the Board for improvement of the MEOP and determine Moody Early Childhood Center's progress within the last 12 months; and
9. To the extent required by law, verify that Moody Early Childhood Center has established a visitor policy and identify the provisions governing access to a school building or other school property.

Education Code 37.108(c-2).

e) Superintendent Duties

The Superintendent shall ensure updating of the MEOP and ongoing staff training.

SEC. 2. SAFETY AND SECURITY AUDIT

a) Audit Requirements

At least once every three years, Moody Early Childhood Center shall conduct a safety and security audit of Moody Early Childhood Center facilities. To the extent possible, Moody Early Childhood Center shall follow safety audit and security audit procedures developed by the TSSC

or a person included in the TSSC’s registry of persons providing school safety or security consulting services.

The safety and security audit must certify that Moody Early Childhood Center used funds provided through the school safety allotment only for purposes provided by Education Code 42.168.

The results of the safety and security audit shall be reported to the Board and, in the manner required by the TSSC, to the TSSC. The report provided to the TSSC must be signed by the Board and Superintendent.

Education Code 37.108(b), (b-1), (c).

b) Disclosure and Confidentiality

Except as provide under Education Code 37.108(c-2), any document or information collected, developed, or produced during a safety and security audit is not subject to disclosure under the Texas Public Information Act. *Education Code 37.108(c-1).*

SEC. 3. SAFETY AND SECURITY COMMITTEE

Moody Early Childhood Center shall establish a school safety and security committee in accordance with guidelines established by the TSSC.

a) Committee Membership

The school safety and security committee, to the greatest extent practicable, must include:

1. One or more representatives of an office of emergency management of a county or city in which Moody Early Childhood Center is located;
2. One or more representatives of the local police department or sheriff’s office;
3. One or more representatives of Moody Early Childhood Center’s police department, if applicable;
4. The Board president;
5. A member of the Board other than the Board president;
6. The Superintendent;
7. One or more designees of the Superintendent, one of whom must be a Moody Early Childhood Center classroom teacher; and
8. Two parents or guardians of students enrolled in Moody Early Childhood Center.

Education Code 37.109(a-1).

b) Committee Responsibilities

The school safety and security committee shall:

1. Participate on behalf of Moody Early Childhood Center in developing and implementing emergency plans consistent with the MEOP to ensure that the plans reflect specific campus, facility, or support services needs;
2. Periodically provide recommendations to the Board and school administrators regarding updating the MEOP in accordance with best practices identified by TEA, the TSSC, or a person included in the registry of persons established by the TSSC as providing school safety or security consulting services;
3. Provide Moody Early Childhood Center with any campus, facility, or support services information required in connection with a safety and security audit or other report required to be submitted to the TSSC;
4. Review each report required to be submitted by Moody Early Childhood Center to the TSSC to ensure that the report contains accurate and complete information regarding each campus, facility, or support service in accordance with criteria established by the TSSC; and
5. Consult with local law enforcement agencies on methods to increase law enforcement presence near school campuses.

Education Code 37.109(b).

c) Committee Meetings

The school safety and security committee shall meet at least once during each academic semester and at least once during the summer. The committee is subject to the Texas Open Meetings Act and may meet in executive session as provided by Chapter 551, Government Code. Notice of a committee meeting must be posted in the same manner as notice of a Board meeting. *Education Code 37.109(c)-(d).*

SEC. 4. NOTICE OF ACTIVE THREAT EXERCISE

Before Moody Early Childhood Center conducts an active threat exercise, including an active shooter simulation, Moody Early Childhood Center shall ensure that adequate notice of the exercise is provided to students expected to participate in the exercise, the parents of those students, and staff likely to be part of the exercise, including information regarding:

1. The date on which the exercise will occur;
2. The content, form, and tone of the exercise; and
3. Whether the exercise will include a live simulation that mimics or appears to be an actual shooting incident.

Education Code 37.1141(a)(1). Moody Early Childhood Center shall also ensure that:

1. The exercise is announced to students and faculty before the start of the exercise, including, if applicable, an announcement that the exercise will include a live simulation that mimics or appears to be an actual threat, such as a shooting incident.
2. First responder organizations that would likely respond in the event of a false report or alarm are notified regarding the exercise; and
3. A safe zone is created around the area in which the exercise will be conducted to keep out actual firearms, ammunition, and other weapons, other than firearms, ammunition, or other weapons carried by a peace officer, school resource officer, or school marshal or any other person authorized by the district to carry those items on school grounds.

Education Code 37.1141(a)(2)-(4). Moody Early Childhood Center shall ensure that the content of any active threat exercise:

4. Is age appropriate and developmentally appropriate;
5. Has been developed by a team of school administrators, teachers, school-based mental health professionals, and law enforcement officers, with input from parents and students; and
6. Is designed to support the well-being of students who participate in the exercise before, during, and after the exercise is conducted.

Education Code 37.1141(a)(5). Moody Early Childhood Center shall track data regarding the efficacy and impact of the exercise, including any feedback regarding the exercise from students, staff, or family members of students or staff and submit such data to the Texas School Safety Center. *Education Code 37.1141(a)(6), (c).*

SEC. 5. NOTIFICATION REGARDING BOMB THREAT OR TERRORISTIC THREAT

Upon receiving a bomb threat or terroristic threat relating to a campus or other Moody Early Childhood Center facility at which students are present, Moody Early Childhood Center shall provide notification of the threat as soon as possible to the parent or guardian of or other person standing in parental relation to each student who is assigned to the campus or who regularly uses the facility, as applicable. *Education Code 37.113.*

SEC. 6. TRAUMATIC INJURY RESPONSE PROTOCOL

Moody Early Childhood Center shall develop and annually make available a protocol for employees and volunteers to follow in the event of a traumatic injuries.

a) Protocol Requirements

The protocol must:

1. Provide for Moody Early Childhood Center to maintain and make available to school employees and volunteers bleeding control stations for use in the event of a traumatic injury involving blood loss;
2. Ensure that bleeding control stations are stored in easily accessible areas of the campus that are selected by the school safety and security committee or the Board;
3. Require that a TEA-approved training on the use of a bleeding control station in the event of an injury to another person be provided to:
 - a. To the extent applicable, each Moody Early Childhood Center peace officer commissioned or school security personnel employed under Education Code 37.081 who provides security services at the campus;
 - b. Each school resource officer who provides law enforcement at the campus; and
 - c. All other Moody Early Childhood Center personnel who may be reasonably expected to use a bleeding control station; and
4. Require Moody Early Childhood Center to annually offer instruction on the use of a bleeding control station from a school resource officer or other appropriate school personnel who has received appropriate training to students enrolled in grade seven or higher.

b) Bleeding Control Stations

The school safety and security committee or the Board may select, as easily accessible areas of the campus at which bleeding control stations may be stored, areas of the campus where automated external defibrillators are stored.

A bleeding control station contain all of the following required supplies in quantities determined appropriate by the Superintendent:

1. Tourniquets approved for use in battlefield trauma care by the armed forces of the United States;
2. Chest seals;
3. Compression bandages;
4. Bleeding control bandages;
5. Space emergency blankets;
6. Latex-free gloves;
7. Markers;
8. Scissors; and
9. Instructional documents developed by the American College of Surgeons or the United States Department of Homeland Security detailing methods to prevent blood loss following a traumatic event.

Bleeding control stations may also include medical material or equipment that:

1. May be readily stored in a bleeding control station;

2. May be used to adequately treat an injury involving traumatic blood loss; and
3. Is approved by local law enforcement or emergency medical services personnel.

Education Code 38.027.

SEC. 7. AUTOMATED EXTERNAL DEFIBRILLATORS

a) Campus Availability

Moody Early Childhood Center shall make available at each campus at least one automated external defibrillator (AED). A campus defibrillator must be readily available during any Universal Interscholastic League (UIL) athletic competition held on the campus. In determining the location at which to store a campus defibrillator, the Principal shall consider the primary location on campus where students engage in athletic activities.

b) Athletic Practices

To the extent practicable, Moody Early Childhood Center, in cooperation with the UIL, shall make reasonable efforts to ensure that an AED is available at each UIL athletic practice held at a Moody Early Childhood Center campus. If Moody Early Childhood Center is not able to make an AED available in such manner, Moody Early Childhood Center shall determine the extent to which an AED must be available at each UIL athletic practice held at a campus; the determination must be based, in appropriate to any other appropriate considerations, on relevant medical information.

c) Athletic Competitions

Moody Early Childhood Center, in cooperation with the UIL, shall determine the extent to which an AED must be available at each UIL athletic competition held at a location other than a Moody Early Childhood Center campus. The determination must be based, in addition to any other appropriate considerations, on relevant medical information and whether emergency services personnel are present at the athletic competition under a contract with Moody Early Childhood Center.

d) Trained Staff

Moody Early Childhood Center shall ensure the presence at each location at which an AED is required at least one school employee trained in the proper use of the defibrillator at any time a substantial number of Moody Early Childhood Center students are present at the location.

e) AED Maintenance

Moody Early Childhood Center shall ensure that AEDs are used and maintained in accordance with standards established under Chapter 779, Health & Safety Code.

Education Code 38.017.

SEC. 8. RESPONSE TO CARDIAC ARREST

The Superintendent or designee shall develop safety procedures for school employees or students to follow in responding to a medical emergency involving cardiac arrest, including the appropriate response time in administering cardiopulmonary resuscitation, using an AED, or calling a local emergency medical services provider. *Education Code 38.018.*

SEC. 1. THREAT ASSESSMENTS

a) Definitions

“Harmful, threatening, or violent behavior” includes behaviors, such as verbal threats, threats of self-harm, bullying, cyberbullying, fighting, the use or possession of a weapon, sexual assault, sexual harassment, dating violence, stalking, or assault, by a student that could result in:

1. Specific interventions, including mental health or behavioral supports;
2. In-school suspension;
3. Out-of-school suspension; or
4. The student’s expulsion.

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

b) Threat Assessment and Safe and Supportive School Team

The Board shall establish a threat assessment and safe and supportive school team at each campus, and shall adopt policies and procedures for the teams. The team is responsible for developing and implementing the safe and supportive school program under Education Code 37.115(b). Policies and procedures concerning the team must:

1. Be consistent with the model policies and procedures developed by the Texas School Safety Center;
2. Require each team to complete training provided by the Texas School Safety Center or a regional education service center regarding evidence-based threat assessment programs; and
3. Require each team established under this section to report the information required under Education Code 37.115(k) regarding the team’s activities to the TEA.

c) Team Membership

The Superintendent shall ensure that the members appointed to each team have expertise in counseling, behavior management, mental health and substance use, classroom instruction, special education, school administration, school safety and security, emergency management, and law enforcement. A team may serve more than one campus, provided that each Moody Early Childhood Center campus is assigned a team.

d) Team Responsibilities

Each team shall:

1. Conduct a threat assessment that includes:

- a. Assessing and reporting individuals who make threats of violence or exhibit harmful, threatening, or violent behavior in accordance with the policies and procedures adopted under this policy; and
- b. Gathering and analyzing data to determine the level of risk and appropriate intervention, including:
 - i. Referring a student for mental health assessment; and
 - ii. Implementing an escalation procedure, if appropriate based on the team's assessment, in accordance with Moody Early Childhood Center policy;
2. Provide guidance to students and school employees on recognizing harmful, threatening, or violent behavior that may pose a threat to the community, school, or individual; and
3. Support Moody Early Childhood Center in implementing its multihazard emergency operations plan.

e) Providing Mental Health Care Services

A team may not a mental health care service to a student who is under 18 years of age unless the team obtains written consent from the parent of or person standing in parental relation to the student before providing the mental health care service. The consent must be submitted on a form developed by Moody Early Childhood Center that complies with all applicable state and federal law. The student's parent or person standing in parental relation to the student may give consent for a student to receive ongoing services or may limit consent to one or more services provided on a single occasion.

f) Determination of Risk

i. Risk of Violence to Self or Others

On determination that a student or other individual poses a serious risk of violence to self or others, a team shall immediately report the determination to the Superintendent. If the individual is a student, the Superintendent shall immediately attempt to inform the parent or person standing in parental relation to the student. This notice requirement does not prevent an employee from acting immediately to prevent an imminent threat or respond to an emergency.

ii. Risk of Suicide

A team identifying a student at risk of suicide shall act in accordance with Moody Early Childhood Center's suicide prevention program. If the student at risk of suicide also makes a threat of violence to others, the team shall conduct a threat assessment in addition to actions taken in accordance with Moody Early Childhood Center's suicide prevention program.

iii. Risk of Possessing Tobacco, Drugs or Alcohol

A team identifying a student using or possessing tobacco, drugs, or alcohol shall act in accordance with Moody Early Childhood Center’s policies and procedures related to substance use prevention and intervention.

g) Oversight Responsibility

The Superintendent may establish a committee, or assign to an existing committee, the duty to oversee the operations of teams established for Moody Early Childhood Center. A committee with oversight responsibility must include members with expertise in human resources, education, special education, counseling, behavior management, school administration, mental health and substance abuse, school safety and security, emergency management, and law enforcement.

h) Reports to TEA

A team must report to TEA the following information regarding the team’s activities and other information for each campus the team serves:

1. The occupation of each person appointed to the team;
2. The number of threats and a description of the type of the threats reported to the team;
3. The outcome of each assessment made by the team, including:
 - a. Any disciplinary action taken, including a change in school placement;
 - b. Any action taken by law enforcement; or
 - c. A referral to or change in counseling, mental health, special education, or other services;
4. The total number, disaggregated by student gender, race, and status as receiving special education services, being at risk of dropping out of school, being in foster care, experiencing homelessness, being a dependent of military personnel, being pregnant or a parent, having limited English proficiency, or being a migratory child, of, in connection with an assessment or reported threat by the team:
 - a. Citations issued for Class C misdemeanor offenses;
 - b. Arrests;
 - c. Incidents of uses of restraint;
 - d. Changes in school placement, including placement in a juvenile justice alternative education program or disciplinary alternative education program, if applicable;
 - e. Referrals to or changes in counseling, mental health, special education, or other services;
 - f. Placements in in-school suspension or out-of-school suspension and incidents of expulsion;
 - g. Unexcused absences of 15 or more days during the school year; and
 - h. Referrals to juvenile court for truancy; and

5. The number and percentage of school personnel trained in:
 - a. A best-practices program or research-based practice under Section 161.325, Health and Safety Code, including the number and percentage of school personnel trained in:
 - i. Suicide prevention; or
 - ii. Grief and trauma-informed practices;
 - b. Mental health or psychological first aid for schools;
 - c. Training relating to the safe and supportive school program established under Education Code 37.115(b); or
 - d. Any other program relating to safety identified by the Commissioner.

Education Code 37.115.

SEC. 2. TRAUMA-INFORMED CARE PLAN

a) Plan Requirements

Moody Early Childhood Center shall adopt and implement a plan requiring the integration of trauma-informed practices in each school environment. The plan must address:

1. Using resources developed by TEA, methods for:
 - a. Increasing staff and parent awareness of trauma-informed care; and
 - b. Implementation of trauma-informed care practices and care by school staff; and
2. Available counseling options for students affected by trauma or grief.

b) Training Requirements

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

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

Moody Early Childhood Center shall keep records of each training conducted, to include the name of each staff member who participated in the training.

c) Reports to TEA

Moody Early Childhood Center shall report annually to TEA the following information for the school as a whole and for each school campus:

1. The number of teachers, principals, and counselors employed by Moody Early Childhood Center who have completed the required training; and
2. The total number of teachers, principals, and counselors employed by Moody Early Childhood Center.

Education Code 38.036.

SEC. 1. SCOPE OF POLICY

The requirements in this policy shall apply to:

- a. The members of the governing body of Moody Early Childhood Center
- b. and Moody Early Childhood Center;
- c. The employees and agents of Moody Early Childhood Center and Moody Early Childhood Center; and
- d. Any management company under contract with Moody Early Childhood Center or Moody Early Childhood Center

19 TAC § 100.1049(a).

SEC. 2. DEFINITIONS

a) “Person, corporation, or other legal entity”

This term includes:

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

b) “Contract, grant, or charter”

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

c) “Campaign contribution”

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

d) “Benefit”

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

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

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

f) “Political advertising”

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

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

State Board of Education Operating Rule § 4.3.

SEC. 3. REQUIRED DISCLOSURES

a) Disclosing Campaign Contributions

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

b) Disclosing Gifts

A person, corporation, or other legal entity associated with Moody Early Childhood Center which proposes to enter into a contract with or applies for a grant, contract, or charter which may be granted by the State Board of Education shall disclose in the same manner any benefit conferred on a candidate for or member of the State Board of Education during the preceding four years. A benefit need not be disclosed if the aggregate value of benefits conferred on a

candidate for or a member of the State Board of Education during the preceding four years does not exceed \$250, or a different limit set by Texas Government Code § 572.023(b)(7). This requirement applies whether or not the person, corporation, or other legal entity is required to report the expenditure to the Texas Ethics Commission.

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

c) Continued Duty of Reporting

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

State Board of Education Operating Rule § 4.3.

SEC. 4. PROHIBITION OF POLITICAL ADVERTISING

Moody Early Childhood Center prohibits the expenditure by the charter holder, charter school, or its management company (if any) for any political advertising as defined above, and as interpreted by the advisory opinions of the Texas Ethics Commission. *19 TAC § 100.1049(c).*

SEC. 1.

SEC. 2. SCOPE OF POLICY

The purpose of this policy is to state the circumstances under which a firearm or weapon may be possessed or used on the premises of Moody Early Childhood Center.

SEC. 3. DEFINITIONS

1. Firearm. "Firearm" means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. Firearm does not include a firearm that may have, as an integral part, a folding knife blade or other characteristics of weapons made illegal by this chapter and that is: (A) an antique or curio firearm manufactured before 1899; or (B) a replica of an antique or curio firearm manufactured before 1899, but only if the replica does not use rim fire or center fire ammunition. *Penal Code § 46.01(3)(A)-(B)*
2. Handgun. "Handgun" means any firearm that is designed, made, or adapted to be fired with one hand. *Penal Code § 46.01(5)*
3. Location-restricted knife. "Location-restricted knife" means a knife with a blade over five and one-half inches. *Penal Code § 46.01(6)*
4. Club. "Club" means an instrument that is specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, and includes but is not limited to the following:
 - (A) blackjack;
 - (B) nightstick;
 - (C) mace;
 - (D) tomahawk.*Penal Code § 46.01(1)(A)-(D)*
5. Prohibited Weapon. A "prohibited weapon" shall include
 - (1) any of the following items, unless the item is registered in the National Firearms Registration and Transfer Record maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives or otherwise not subject to that registration requirement or unless the item is classified as a curio or relic by the United States Department of Justice:
 - (A) an explosive weapon;
 - (B) a machine gun; or
 - (C) a short-barrel firearm;

- (2) armor-piercing ammunition;
- (3) a chemical dispensing device;
- (4) a zip gun;
- (5) a tire deflation device; or
- (6) an improvised explosive device.

Penal Code § 46.05(a)(1)-(4)

- 6. School Premises. "Premises" means a building or a portion of a building owned or leased by the School. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area. *See, Penal Code § 46.03(c)(4).*

Sec. 3. Prohibition of Firearms and Weapons Per School Policy

- A. On School Premises. MOODY EARLY CHILDHOOD CENTER prohibits the use, display or possession of firearms, handguns, location-restricted knives, clubs, and prohibited weapons on School Premises unless explicitly permitted in this policy or unless otherwise permitted by applicable federal or state law. This prohibition and related exceptions apply to all individuals on School Premises including but not limited to charter holder board members, charter school board members, employees, students, parents, vendors, contractors, and visitors.
- B. At School Board Meetings. Firearms are prohibited in the room or rooms where a public meeting of the governing body of the MOODY EARLY CHILDHOOD CENTER is being held pursuant to a properly noticed meeting under the open meetings law. *Penal Code § 46.03 (a)(14).*

Sec. 4. Prohibition of Firearms in a School Zone Under Federal Law and Exceptions

- A. Prohibition of Firearms under Federal Law. Per the federal Gun Free School Zones Act, MOODY EARLY CHILDHOOD CENTER prohibits the possession of firearms on or near school property. Thus, an individual may not knowingly possess a firearm in a school zone. For purposes of this federal law, the term “school zone” means property in, or on the grounds of, or within 1,000 feet from the grounds of a public, parochial, or private school.
- B. Exception to the Federal Prohibition: The federal prohibition does not apply to the possession of a firearm:
 - a. When the carrier is licensed to carry under state law;
 - b. When the firearm is unloaded and stored in a locked container or a locked firearms rack that is in a vehicle;
 - c. If the firearm is carried for use in a program approved by the school;

- d. If the firearm is carried as allowed by a written contract between the school and the licensed individual; or
- e. If the firearm is carried by a law enforcement officer acting in his or her official capacity.

Sec 5. Prohibition of Firearms and Weapons Under State Law

- A. It is a criminal offense for an individual to exhibit or threaten to use a firearm on school property or in a school vehicle in a manner intended to cause alarm or personal injury to another person or to damage school property. *Education Code § 37.125(a)*.
- B. It is a criminal offense for an individual to intentionally, knowingly, or recklessly possesses or go with a firearm, location-restricted knife, club, or prohibited weapon on the physical premises of the school, on any grounds or building on which an activity sponsored by the school is being conducted, on a passenger transportation vehicle of the school, or on the premises where a high school or interscholastic event is taking place, unless the person is a participant in the event and a firearm, location-restricted knife, club, or prohibited weapon is used in the event. *Penal Code § 46.03*.

Sec 6. Exceptions to Prohibition of Firearms and Weapons Under State Law

- A. Federal and State Officials Permitted Firearms Under State Law. Per state law, it is not a violation of this policy or state law for the following individuals to carry a firearm on the premises of MOODY EARLY CHILDHOOD CENTER:
 - a. A member of the armed forces or national guard, a guard employed by a penal institution, or an officer of the court, while in the conduct of official duties;
 - b. On or off duty peace officers or special criminal investigators;
 - c. Authorized and on-duty parole officers;
 - d. Authorized and on-duty community supervision and corrections department officers;
 - e. Active judicial officers licensed to carry handguns;
 - f. Honorably retired peace officers, qualified retired law enforcement officers, federal criminal investigators, or former reserve law enforcement officers, with proper identification;
 - g. U.S. attorneys and assistant U.S. attorneys, district attorneys and assistant district attorneys, criminal district attorneys, county attorneys, the attorney general and assistant attorneys general, or municipal attorneys licensed to carry handguns;

- h. Bailiffs designated to escort active judicial officers and licensed to carry handguns;
 - i. Juvenile probation officers authorized to carry firearms; and
 - j. Volunteer emergency services personnel if the person is carrying a handgun under the authority of his or her license and is engaged in providing emergency services. *Penal Code § 46.15(a).*
- B. Individuals Permitted to Carry Firearms Per State Law. No violation of this policy or state law occurs when:
- a. a Texas handgun license holder stores a handgun or other firearm in a locked vehicle in a parking lot, parking garage, or other parking area on School Premises if the handgun or other firearm is not in plain sight. *Education Code § 37.0815*;
 - b. the use, possession, or display of an otherwise prohibited weapon takes place as part of a school-approved activity or sports competition supervised by proper authorities; or
 - c. a firearm is possessed by a licensed campus school marshal who is appointed by the governing body of the charter school and approved by the Texas Commission on Law Enforcement, provided that the campus school marshal's possession and use of the firearm is in accordance with written board regulations *Education Code §§ 37.0811; 37 TAC 227.1 – 227.9.*
- C. Conduct by Persons Permitted to Carry Firearms. Any individual permitted to carry a firearm on school premises under this policy or state law must not possess, transport, or store a handgun, a firearm, or ammunition in violation of Section [37.125](#), Texas Education Code (i.e., to exhibit or threaten to use a firearm on school property or in a school vehicle in a manner intended to cause alarm or personal injury to another person or to damage school property) or otherwise in violation of Section [46.03, Texas](#) Penal Code, or other law. *Education Code § 37.081.*

Sec. 8. Signs Providing Notice of Prohibited Firearms

The Superintendent must provide notice that firearms are prohibited on school premises by posting a sign at each entrance to the premises as indicated below. The Superintendent may also produce a card or other document to disseminate the requirements of this policy as indicated below:

<i>Prohibiting Concealed Carry¹</i>	<i>Prohibiting Open Carry²</i>
<p>Card or other document that includes the following language:</p> <p>“Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.”</p> <p>This notice may be given orally or in writing.</p>	<p>Card or other document that includes the following language:</p> <p>“Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.”</p> <p>This notice may be given orally or in writing.</p>
<p>Sign posted on school premises that includes the following language:</p> <p>“Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.”</p> <p>The sign must include the quoted language in English and Spanish, appear in contrasting colors with block letters at least one inch in height, and be displayed in a conspicuous manner clearly visible to the public.</p>	<p>Sign posted on premises that includes the following language:</p> <p>“Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.”</p> <p>The sign must include the quoted language in English and Spanish, appear in contrasting colors with block letters at least one inch in height, and be displayed in a conspicuous manner clearly visible to the public at each entrance to the property.</p>

¹ Penal Code § 30.06

² Penal Code § 30.07

**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
MANUAL**

**POLICY GROUP 2 – INSTRUCTION
INSTRUCTIONAL PROGRAM OVERVIEW**

PG-2.1

SEC. 1. ESSENTIAL KNOWLEDGE AND SKILLS

Moody Early Childhood Center shall establish instructional objectives that relate to the essential knowledge and skills for grade-level subjects or courses. These objectives shall address the skills needed for successful performance in the next grade or next course in a sequence of courses.

Assignments, tests, projects, classroom activities, and other instructional activities shall be designed so that the student's performance indicates the level of mastery of the designated curriculum objectives. The student's mastery level shall be a major factor in determining the grade for a subject or course.

SEC. 2. GUIDELINES FOR GRADING

The Executive Director or designee shall ensure that each campus or instructional level develops guidelines for teachers to follow in determining grades for students. These guidelines shall ensure that grading reflects a student's relative mastery of an assignment and that a sufficient number of grades are taken to support the grade average assigned. Guidelines for grading shall be clearly communicated to students and parents.

In accordance with grading guidelines, a student shall be permitted a reasonable opportunity to redo an assignment or retake a test for which the student received a failing grade.

SEC. 3. PROGRESS REPORTING

Grade/progress reports shall be issued on a form approved by the Executive Director or designee within the time period approved by the Executive Director or designee. Supplemental progress reports may be issued at the teacher's discretion.

SEC. 4. REPORT OF STUDENT PERFORMANCE TO PARENTS

Moody Early Childhood Center shall provide a record of the comparisons of student performance made under Education Code 39.034 and provided to Moody Early Childhood Center under Education Code 39.302 in a written notice to the student's parent or other person standing in parental relationship.

For a student who failed to perform satisfactorily as determined under either performance standard under Education Code 39.0241 on an assessment instrument administered under Education Code 39.023(a), (c), or (l), Moody Early Childhood Center shall include in the notice specific information relating to access to educational resources at the appropriate assessment instrument content level, including assessment instrument questions and answers released under Education Code 39.023(e).

Education Code 39.303.

BOARD ADOPTED: XXXX, 20XX

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**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
MANUAL**

**POLICY GROUP 2 – INSTRUCTION
INSTRUCTIONAL PROGRAM OVERVIEW**

PG-2.1

SEC. 5. CONFERENCES

Conferences may be requested by a teacher or parent as needed.

SEC. 6. ACADEMIC DISHONESTY

Students found to have engaged in academic dishonesty shall be subject to grade penalties on assignments or tests and disciplinary penalties in accordance with the Student Code of Conduct. Academic dishonesty includes cheating or copying the work of another student, plagiarism, and unauthorized communication between students during an examination. The determination that a student has engaged in academic dishonesty shall be based on the judgment of the classroom teacher or another supervising professional employee, taking into consideration written materials, observation, or information from students.

**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
MANUAL**

**POLICY GROUP 2 – INSTRUCTION
EDUCATIONAL PROGRAM IN GENERAL**

PG-2.2

SEC. 1. SCHOOL YEAR

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

SEC. 2. LENGTH OF SCHOOL DAY

A school day shall be at least seven hours each day, including intermissions and recesses.

SEC. 3. REQUIRED INSTRUCTION

A primary purpose of Moody Early Childhood Center’s curriculum is to prepare thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the basic democratic values of our state and national heritage. Moody Early Childhood Center shall foster the continuation of the tradition of teaching United States and Texas history and the free enterprise system in regular subject matter, in reading courses, and in the adoption of textbooks.

SEC. 4. REQUIRED CURRICULUM

Moody Early Childhood Center shall ensure that all students enrolled participate actively in a balanced curriculum designed to meet individual needs.

Moody Early Childhood Center shall offer to students in all grade levels the curriculum required by the charter contract currently on file with the State of Texas. This curriculum shall include, at appropriate grade levels:

1. A foundation curriculum that includes:
 - a. English language arts;
 - b. Mathematics;
 - c. Science; and
 - d. Social studies, consisting of Texas, United States, and world history, government, economics, with emphasis on the free enterprise system and its benefits, and geography; and
2. An enrichment curriculum that includes:
 - a. To the extent possible, languages other than English;
 - b. Health, with emphasis on:
 - i. Physical health, including the importance of proper nutrition and exercise;
 - ii. Mental health, including instruction about mental health conditions, substance abuse, skills to manage emotions, establishing and maintaining positive relationships, and responsible decision-making; and

BOARD ADOPTED: XXXX, 20XX

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**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
MANUAL**

**POLICY GROUP 2 – INSTRUCTION
EDUCATIONAL PROGRAM IN GENERAL**

PG-2.2

- iii. Suicide prevention, including recognizing suicide-related risk factors and warning signs;
- c. Physical education;
- d. Fine arts;
- e. Career and technology education;
- f. Technology applications;
- g. Religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature; and
- h. Personal financial literacy.

Education Code 12.111(a), 28.002(a), 28.025.

SEC. 5. SOCIAL STUDIES INSTRUCTION

The following provisions in this Section apply for any social studies course in the required curriculum pursuant to Education Code 28.002(h-3):

a) ***Teacher Discussion***

A teacher may not be compelled to discuss a particular current event or widely debated and currently controversial issue of public policy or social affairs. A teacher who chooses to do so shall, to the best of the teacher's ability, strive to explore the topic from diverse and contending perspectives without giving deference to any one perspective.

b) ***Students***

Moody Early Childhood Center or a Moody Early Childhood Center teacher may not require, make part of a course, or award a grade or course credit, including extra credit, for a student's:

- 1. political activism, lobbying, or efforts to persuade members of the legislative or executive branch at the federal, state, or local level to take specific actions by direct communication; or
- 2. participation in any internship, practicum, or similar activity involving social or public policy advocacy

c) ***Trainings, Orientations, or Therapies***

A teacher, administrator, or other employee of Moody Early Childhood Center may not be required to engage in training, orientation, or therapy that presents any form of race or sex stereotyping or blame on the basis of race or sex.

d) ***Course Content***

A teacher, administrator, or other employee of Moody Early Childhood Center may not:

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1. require or make part of a course the concept that:
 - i. one race or sex is inherently superior to another race or sex;
 - ii. an individual, by virtue of the individual's race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;
 - iii. an individual should be discriminated against or receive adverse treatment solely or partly because of the individual's race;
 - iv. members of one race or sex cannot and should not attempt to treat others without respect to race or sex;
 - v. an individual's moral character, standing, or worth is necessarily determined by the individual's race or sex;
 - vi. an individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;
 - vii. an individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of the individual's race or sex;
 - viii. meritocracy or traits such as a hard work ethic are racist or sexist or were created by members of a particular race to oppress members of another race;
 - ix. the advent of slavery in the territory that is now the United States constituted the true founding of the United States; or
 - x. with respect to their relationship to American values, slavery and racism are anything other than deviations from, betrayals of, or failures to live up to, the authentic founding principles of the United States, which include liberty and equality; and

2. require an understanding of The 1619 Project.

Education Code 28.002(h-3).

SEC. 6. CHARACTER TRAITS AND PERSONAL SKILLS INSTRUCTION

Moody Early Childhood Center shall adopt a character education program that includes the following positive character traits:

1. Courage;
2. Trustworthiness, including honesty, reliability, punctuality, and loyalty;
3. Integrity;
4. Respect and courtesy;
5. Responsibility, including accountability, diligence, perseverance, and self-control;
6. Fairness, including justice and freedom from prejudice;
7. Caring, including kindness, empathy, compassion, consideration, patience, generosity, and charity;
8. Good citizenship, including patriotism, concern for the common good and the community, and respect for authority and the law;

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9. School pride; and
10. Gratitude.

Beginning with the 2022-2023 school year, Moody Early Childhood Center shall adopt a character education program that includes the following positive character traits and personal skills:

1. Courage;
2. Trustworthiness, including honesty, reliability, punctuality, and loyalty;
3. Integrity;
4. Respect and courtesy;
5. Responsibility, including accountability, diligence, perseverance, self-management skills, and self-control;
6. Fairness, including justice and freedom from prejudice;
7. Caring, including kindness, empathy, compassion, consideration, patience, generosity, charity, and interpersonal skills;
8. Good citizenship, including patriotism, concern for the common good and the community, responsible decision-making skills, and respect for authority and the law;
9. School pride; and
10. Gratitude.

The programs shall be implemented in accordance with guidelines published by the Commissioner of Education / State Board of Education.

Education Code 29.906.

SEC. 7. SCHOOL CALENDAR

The Executive Director shall develop a school calendar reflecting Moody Early Childhood Center's operations in accordance with the requirements of the charter contract. The Executive Director or designee shall distribute the school calendar to all students and parents.

SEC. 8. RECOGNITION DATES

Moody Early Childhood Center will regularly observe the following recognition days, weeks, and months by appropriate activities in public schools:

Hydrocephalus Awareness Month: September is Hydrocephalus Awareness Month to:

1. Increase public awareness of hydrocephalus; and
2. Encourage the development of partnerships between the federal government, health care professionals, and patient advocacy groups to advance the public's understanding of the

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condition, improve the diagnosis and treatment of the condition, and support research for a cure.

Gov't Code 622.106.

Texas History Month: March is Texas History Month in honor of those Texans who helped shape the history of the State of Texas and in recognition of events throughout Texas' history. Texas History Month shall be regularly observed by appropriate celebrations and activities in public schools to promote interest in and knowledge of Texas history.

Gov't Code 662.102.

Celebrate Freedom Week: To educate students about the sacrifices made for freedom in the founding of this country and the values on which this country was founded, the week in which September 17 falls is designated as Celebrate Freedom Week.

Education Code 29.907.

Generation Texas Week: To educate middle school and high school students about the importance of higher education, the Executive Director shall designate one week during the school year as Generation Texas Week. The Executive Director shall designate one week during the school year as Generation Texas Week for all middle school, junior high, and high school students attending Moody Early Childhood Center.

During the designated week, each middle school and high school shall provide students with comprehensive grade-appropriate information regarding the pursuit of higher education. The information provided must include information regarding:

1. Higher education options available to students;
2. Standard admission requirements for institutions of higher education, including:
 - a. Overall high school grade point average;
 - b. Required curriculum;
 - c. College readiness standards and expectations as determined under Education Code 28.008; and
 - d. Scores necessary on generally recognized tests or assessment instruments used in admissions determinations, including the Scholastic Assessment Test and the American College Test;
3. Automatic admission of certain students to general academic teaching institutions as provided by Education Code 51.803; and
4. Financial aid availability and requirement, including the financial aid information provided under Education Code 33.007(b).

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Additionally, each middle school, junior high school, and high school shall provide to the students during the designated week at least one public speaker to promote the importance of higher education.

Education Code 29.911.

Holocaust Remembrance Week: The governor shall designate a week to be known as “Holocaust Remembrance Week” in public schools to educate students about the Holocaust and inspire a sense of responsibility to recognize and uphold human value and to prevent future atrocities.

Holocaust Remembrance Week shall include age-appropriate instruction, as determined by Moody Early Childhood Center:

1. Information about the history of and lessons learned from the Holocaust;
2. Participation, in person or using technology, in learning projects about the Holocaust; and
3. The use of materials developed or approved by the Texas Holocaust and Genocide Commission.

Education Code 29.9072.

American Indian Heritage Day: The last Friday in September is American Indian Heritage Day in recognition of the historic, cultural, and social contributions American Indian communities and leaders have made to this state. American Indian Heritage Day shall be regularly observed by appropriate ceremonies, activities, and programs in public schools to honor American Indians in this state and to celebrate the rich traditional and contemporary American Indian culture.

Gov’t Code 662.056.

Constitution Day: Upon receipt of federal funds, Moody Early Childhood Center shall recognize September 17 as Constitution Day and hold an educational program on the United States Constitution for students served by Moody Early Childhood Center.

Pub. L. 108-447.

Father of Texas Day: November 3 is Father of Texas Day in memory of Stephen F. Austin. Father of Texas Day shall be regularly observed by appropriate and patriotic programs in public schools to properly commemorate the birthday of Stephen F. Austin and to inspire a greater love for this state.

Gov’t Code 662.045.

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Public School Paraprofessional Day: The second Wednesday in May of each year is Public School Paraprofessional Day in recognition of education paraprofessionals including teacher assistants, instructional aides, educational trainers, library attendants, bilingual assistants, special education associates, mentors, and tutors. Public School Paraprofessional Day shall be regularly observed by appropriate ceremonies and activities in public schools to properly recognize the paraprofessionals who have made tremendous contributions to the educational process.

Gov't Code 662.049.

Sam Rayburn Day: January 6 is Sam Rayburn Day in memory of the Texas and American statesman, Sam Rayburn. Sam Rayburn Day shall be regularly observed by appropriate programs in public schools to commemorate the birthday of Sam Rayburn. *Gov't Code 662.041.*

September 11: To commemorate the events of September 11, 2001, in each year that date falls on a regular school day, each public elementary or secondary school shall provide for the observance of one minute of silence at the beginning of the first class period of that day. Immediately before the period of observance required by this section, the class instructor shall make a statement of reference to the memory of individuals who died on September 11, 2001. The period of observance required by this section may be held in conjunction with the minute of silence required by Section 25.082.

Education Code 25.0821.

State of Texas Anniversary Remembrance Day: February 19 is State of Texas Anniversary Remembrance Day (STAR Day) in honor of Texas joining the Union and the day that James Pinckney Henderson became the first governor of the State of Texas in 1846. STAR Day shall be regularly observed by appropriate and patriotic programs in the public schools to properly commemorate the annexation of this state and to inspire a greater appreciation for the history of this state.

Gov't Code 662.047.

Texas First Responders Day: September 11 is Texas First Responders Day in honor of the bravery, courage, and determination of Texas men and women who assist others in emergencies. Texas First Responders Day shall be regularly observed by appropriate ceremonies in public schools to honor Texas first responders.

Gov't Code 662.050.

Texas Girls in STEM Day: March 1 is designated as Texas Girls in STEM Day to celebrate and encourage the participation of girls in fields related to science, technology, engineering, and mathematics. Texas Girls in STEM Day shall be regularly observed by appropriate ceremonies, activities, and programs in public schools to:

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1. Encourage girls in this state to consider career fields in science, technology, engineering, and mathematics; and
2. Celebrate and honor the women of this state who have excelled in those fields.

Gov't Code 662.071.

Texas Military Heroes Day: The governor shall designate a day to be known as Texas Military Heroes Day in public schools to educate students about the sacrifices made by Texans who have served in the armed forces of the United States. Texas Military Heroes Day will include appropriate instruction, as determined by Moody Early Childhood Center. Instruction may include:

1. Information about persons who have served in the armed forces of the United States and are from the community or the geographic area in which Moody Early Childhood Center is located; and
2. Participation, in person or using technology, in age-appropriate learning projects at battlefields and gravesites associated with a person who has served in the armed forces.

Education Code 29.9071.

Women's Independence Day: August 26 is Women's Independence Day to commemorate the ratification in 1920 of the Nineteenth Amendment to the United States Constitution, which guaranteed women the right to vote. Women's Independence Day shall be regularly observed by appropriate programs in the public schools to inspire a greater appreciation of the importance of women's suffrage.

Gov't Code 662.051.

SEC. 9. EXERCISE OF CONSTITUTIONAL RIGHT TO PRAY

Each Moody Early Childhood Center student has an absolute right to individually, voluntarily, and silently pray or meditate in school in a manner that does not disrupt the instructional or other activities of the school. A person shall not require, encourage, or coerce a student to engage in or refrain from such prayer or meditation during any school activity.

Education Code 25.901.

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SEC. 1. GRADUATION REQUIREMENTS

Credit counted toward high school graduation may be earned only if the student received a grade equivalent to 70 on a scale of 100, based upon the essential knowledge and skills of each course completed. Credit earned toward state graduation requirements in an accredited school district shall be transferable and must be accepted by any other school in the state.

SEC. 2. ACADEMIC ACHIEVEMENT RECORD

Moody Early Childhood Center shall use the academic achievement record (transcript) form designated by the Commissioner of Education (“Commissioner”). This form shall serve as the academic record for each student and shall be maintained permanently by Moody Early Childhood Center.

Any credit earned by a student must be recorded on the academic achievement record, regardless of when the credit was earned. A student’s performance on a state assessment, including an end-of-course assessment instrument required under Education Code 39.023(c), must be included in the student’s academic achievement record.

Copies of the academic achievement record shall be made available to students transferring to another public school. Moody Early Childhood Center shall respond promptly to all requests for student records from receiving schools.

Education Code 28.025(e); 19 TAC 74.5(b)-(d).

a) Transcript Seals

A student who completes high school graduation requirements shall have attached to the academic achievement record the State Board-approved seal.

19 TAC 74.5(e).

b) Endorsement

A student who completes the requirements for an endorsement shall have the endorsement clearly indicated on the academic achievement record.

19 TAC 74.5(f).

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c) Performance Acknowledgment

A student who earns a performance acknowledgment shall have the performance acknowledgment clearly indicated on the academic achievement record.

19 TAC 74.5(g).

d) Distinguished Level of Achievement

A student who earns the distinguished level of achievement shall have the distinguished level of achievement clearly indicated on the academic achievement record and on the diploma.

19 TAC 74.5(h).

e) Completion of Speech Requirements

A student who demonstrates proficiency in speech as specified in 19 Texas Administrative Code § 74.11 shall have completion of the speech requirement clearly indicated on the academic achievement record.

19 TAC 74.5(i).

f) Completion of CPR Instruction

A student who completes instruction in cardiopulmonary resuscitation (CPR) as specified in 19 Texas Administrative Code § 74.38 in grade 9, 10, 11, or 12 shall have completion of the CPR instruction clearly indicated on the academic achievement record.

19 TAC 74.5(j).

g) Proper Interaction with Peace Officers

A student who completes the required instruction on proper interaction with peace officers shall have completion of the instruction clearly indicated on the academic achievement record.

19 TAC 74.5(k).

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h) Languages Other than English

A student who satisfies a graduation credit requirement related to a language other than English by successfully completing a dual language immersion program at an elementary school as specified in 19 Texas Administrative Code § 74.12(b)(5)(F) shall have the credit clearly indicated on the academic achievement record.

19 TAC 74.5(l).

i) Certificate of Coursework Completion

A student who completes all graduation requirements except for required end-of-course assessment instruments may be issued a certificate of coursework completion. The academic achievement record shall include a notation of the date a certificate of completion was issued to the student.

19 TAC 74.5(m).

Moody Early Childhood Center may allow a student who receives a certificate to participate in a graduation with students receiving high school diplomas.

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SEC. 1. COURSE AND DIPLOMA REQUIREMENTS

A student may graduate and receive a diploma only if:

1. The student successfully completes the curriculum requirements identified by the State Board of Education;
2. The student successfully completes the Texas First Early High School Completion Program; or
3. The student successfully completes an individualized education program.

Education Code 28.025(c), 28.0253

a) Individual Graduation Committee

Without complying with the requirements discussed above, a student may receive a diploma if the student is eligible for a diploma as determined by an individual graduation committee (IGC). *Education Code 25.025(c-6), .0258.*

For each 11th or 12th grade student who has failed to comply with end-of-course (EOC) assessment instrument performance requirements for not more than two courses, Moody Early Childhood Center shall establish an IGC at the end of or after the student's 11th grade year to determine whether the student may qualify to graduate. An IGC may not qualify a student to graduate before the student's 12th grade year.

The IGC shall be composed of:

1. The Executive Director or Executive Director's designee;
2. For each EOC assessment instrument on which the student failed to perform satisfactorily, the teacher of the course;
3. The department chair or lead teacher supervising the teacher(s) described above; and
4. As applicable:
 - a. The student's parent;
 - b. A designated advocate if the parent is unable to serve; or
 - c. The student, at the student's option, if the student is at least 18 years of age or is an emancipated minor.

Moody Early Childhood Center shall provide an appropriate translator, if available, for a parent, advocate, or student who is unable to speak English.

Education Code 28.0258(a)-(c), (c-2); 19 TAC 74.1025.

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b) Notice

Moody Early Childhood Center shall ensure a good faith effort is made to timely notify the appropriate person(s) described under Sec. 1-a, Item 4 of the time and place for concerning the IGC and the purpose of the IGC. The notice must be:

1. Provided in person or by regular mail or e-mail;
2. Clear and easy to understand; and
3. Written in English, in Spanish, or, to the extent practicable, in the native language of the appropriate person(s).

Education Code 28.0258(d).

c) Eligibility to Graduate

To be eligible to graduate and receive a high school diploma as determined by an IGC, a student must successfully complete the curriculum requirements for high school graduation identified by the State Board of Education.

A student's IGC shall also recommend additional requirements by which the student may qualify to graduate, including:

1. Additional remediation; and
2. For each EOC assessment instrument on which the student failed to perform satisfactorily:
 - a. The completion of a project related to the subject area of the course that demonstrates proficiency in the subject area; or
 - b. The preparation of a portfolio of work samples in the subject area of the course, including work samples from the course that demonstrate proficiency in the subject area.

A student may submit to the IGC coursework previously completed to satisfy a recommended additional requirement.

Education Code 28.0258(f), (g).

The IGC will consider the criteria at Education Code 28.0258(h) and any other academic information designated for consideration by the State Board of Education in determining whether a student is qualified to graduate. After considering the criteria, the IGC may determine that the student is qualified to graduate. A student may graduate and receive a diploma on the basis of the IGC's decision only if the student successfully completes all additional requirements recommended by the IGC, the student meets applicable curriculum requirements, and the IGC's

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vote is unanimous. The IGC's decision is final and may not be appealed. *Education Code 28.0258(i)*.

**SEC. 2. GRADUATION REQUIREMENTS FOR STUDENTS ENTERING GRADE 9 IN OR AFTER THE
2014–2015 SCHOOL YEAR**

To receive a high school diploma, a student entering grade 9 in the 2014–2015 school year and thereafter must complete:

1. Requirements of the foundation high school program under 19 Administrative Code 74.12 (see Sec. 2-a, "Foundation High School Program," below);
2. Testing requirements for graduation under 19 Administrative Code Chapter 101; and
3. Demonstrated proficiency, as determined by Moody Early Childhood Center, in delivering clear verbal messages; choosing effective nonverbal behaviors; listening for desired results; applying valid critical-thinking and problem-solving processes; and identifying, analyzing, developing, and evaluating communication skills needed for professional and social success in interpersonal situations, group interactions, and personal and professional presentations.

A student shall enroll in the courses necessary to complete the curriculum requirements for the foundation high school program specified in 19 Administrative Code 74.12 and the curriculum requirements for at least one endorsement.

Education Code 28.025(c); 19 TAC 74.11(a), (c).

a) Foundation High School Program

A student must earn at least 22 credits to complete the foundation high school program and must demonstrate proficiency in the following core courses:

1. English language arts—4 credits;
2. Mathematics—3 credits;
3. Science—3 credits;
4. Social Studies—3 credits;
5. Languages other than English—2 credits;
6. Physical Education—1 credit;
7. Fine Arts—1 credit; and
8. Elective courses—5 credits.

19 TAC 74.12.

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b) Endorsements

A student shall specify in writing an endorsement the student intends to earn upon entering grade 9. A student may earn any of the following endorsements:

1. Science, technology, engineering, and mathematics (STEM);
2. Business and industry;
3. Public services;
4. Arts and humanities; and
5. Multidisciplinary studies.

Moody Early Childhood Center must make at least one endorsement available to students. If Moody Early Childhood Center offers only one endorsement, its curriculum must offer multidisciplinary studies.

To earn an endorsement a student must demonstrate proficiency in the curriculum requirements for the foundation high school program and, in accordance with 19 Administrative Code 74.13(e), earn:

1. A fourth credit in mathematics;
2. An additional credit in science; and
3. Two additional elective credits.

A course completed as part of the four courses needed to satisfy an endorsement requirement may also satisfy a requirement under the foundation high school program, including an elective requirement. The same course may count as part of the set of four courses for more than one endorsement.

Moody Early Childhood Center shall permit a student to enroll in courses under more than one endorsement before the student's junior year and to choose, at any time, to earn an endorsement other than the endorsement the student previously indicated.

A student must earn at least 26 credits to earn an endorsement, but a student is not entitled to remain enrolled to earn more than 26 credits.

Moody Early Childhood Center may define advanced courses and determine a coherent sequence of courses for an endorsement area, provided that prerequisites in 19 Administrative Code Chapters 110–118, 126, 127, and 130 are followed.

Education Code 28.025; 19 TAC 74.13.

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i. Exception

A student may graduate under the foundation high school program without earning an endorsement if, after the student's sophomore year:

1. The student and the student's parent or person standing in parental relation to the student are advised by a school counselor of the specific benefits of graduating from high school with one or more endorsements; and
2. The student's parent or person standing in parental relation to the student files with a school counselor's written permission, on a form adopted by Texas Education Agency, allowing the student to graduate under the foundation high school program without earning an endorsement.

19 TAC 74.11(d).

*c) **Distinguished Level of Achievement***

A student may earn a distinguished level of achievement by successfully completing the curriculum requirements for the foundation high school program and the curriculum requirements for at least one endorsement, including four credits in science and four credits in mathematics, including Algebra II. *19 TAC 74.11(e).*

*d) **Texas First Early High School Completion Program***

High school students who demonstrate early readiness for college may graduate early from high school through the Texas First Early High School Completion Program ("the Program").

Under the Program, Moody Early Childhood Center may issue a high school diploma to a student if, using the standards established under Education Code Section 28.0253(c), the student demonstrates mastery of and early readiness for college in each of the subject areas described by Section 28.0253(c) and in a language other than English, notwithstanding any other local or state requirements. A student who earns a high school diploma through the Program is considered to have earned a distinguished level of achievement under the foundation high school program adopted under Section 28.025.

Education Code Section 28.0253(a)-(f).

On a student's initial enrollment in high school in a grade below grade 12, Moody Early Childhood Center shall provide to the student and the student's parent or guardian information regarding:

1. requirements to earn a high school diploma under the Program; and
2. the Texas First Scholarship Program established under Subchapter K-1, Chapter 56.

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Education Code Section 28.0253(g).

e) Prerequisites

A student may not be enrolled in a course that has a required prerequisite unless:

1. The student has successfully completed the prerequisite course(s);
2. The student has demonstrated equivalent knowledge as determined by Moody Early Childhood Center; or
3. The student was already enrolled in the course in an out-of-state, an out-of-country, or a Texas nonpublic school and transferred to a Texas public school prior to successfully completing the course.

Moody Early Childhood Center may award credit for a course a student completed without having met the prerequisites if the student completed the course in an out-of-state, an out-of-country, or a Texas nonpublic school where there was not a prerequisite.

19 TAC 74.11(i), (j).

f) College Courses

Courses offered for dual credit at or in conjunction with an institution of higher education that provide advanced academic instruction beyond, or in greater depth than, the essential knowledge and skills for the equivalent high school course required for graduation may satisfy graduation requirements, including requirements for required courses, advanced courses, and courses for elective credit as well as requirements for endorsements. *19 TAC 74.11(h).*

g) Languages Other than English

Students may earn credit for language other than English in accordance with 19 Administrative Code 74.12(b)(5). A student who successfully completes a dual language immersion program may satisfy one credit of the two credits required in a language other than English in accordance with 19 Administrative Code 74.12(b)(5)(F). *19 TAC 74.12(b)(5).*

h) Physical Education Substitutions

To the extent permitted by state rules applicable to the student's graduation program, Moody Early Childhood Center shall award state graduation credit in physical education for participation in approved activities and elective courses.

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Moody Early Childhood Center shall award state graduation credit in physical education for appropriate private or commercially sponsored physical activity programs conducted either on or off campus, upon approval by the Commissioner of Education (“Commissioner”).

A student who is unable to participate in physical activity due to disability or illness may substitute an academic elective credit in English language arts, mathematics, science, social studies or a course that is offered for credit as provided by Education Code 28.002(g-1) for the required physical education credit. A credit allowed to be substituted may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The determination regarding a student’s ability to participate in physical activity must be made by:

1. The student’s admission, review and dismissal (“ARD”) committee if the student receives special education services;
2. The student’s Section 504 Committee, if the student does not receive special education services under Education but is covered by Section 504; or
3. A committee, established by Moody Early Childhood Center, of persons with appropriate knowledge regarding the student if each of the committees described above is inapplicable. This committee must follow the same procedures required of an ARD or a Section 504 Committee.

Education Code 28.025(b-10)–(b-11); 19 TAC 74.12(b)(6).

i) Community-Based Fine Arts Programs

In accordance with local Moody Early Childhood Center policy, the required fine arts credit may be earned through participation in a community-based fine arts program not provided by Moody Early Childhood Center. Such credit may be earned through participation in the community-based fine arts program only if the program meets each of the following requirements:

1. Moody Early Childhood Center must apply to the Commissioner for approval of the community-based fine arts program;
2. The State Board of Education must certify that the program provides instruction in the essential knowledge and skills for fine arts as defined by 19 Administrative Code Chapter 117, Subchapter C;
3. Moody Early Childhood Center must document student completion of the approved activity;
4. The program must be organized and monitored by appropriately trained instructors;
5. The fine arts program may be provided on or off a school campus and outside the regular school day; and
6. Students may not be dismissed from any part of the regular school day to participate in the community-based fine arts program.

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Moody Early Childhood Center shall require that instructors of the community-based fine arts program provide Moody Early Childhood Center, at its request, the information necessary to obtain the criminal history record information required for school personnel in accordance with 19 Administrative Code Chapter 153, Subchapter DD, if the community-based program is offered on campus.

Education Code 28.025(b-9); 19 TAC 74.12(b)(7)(B), .1030.

j) Performance Acknowledgments

In accordance with the requirements of 19 Administrative Code 74.14, a student may earn a performance acknowledgment on the student’s transcript for:

1. Outstanding performance:
 - a. In a dual credit course;
 - b. In bilingualism and biliteracy;
 - c. On a College Board advanced placement test or international baccalaureate examination;
 - d. On an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument used to measure a student’s progress toward readiness for college and the workplace; or
 - e. On an established, valid, reliable, and nationally norm-referenced assessment instrument used by colleges and universities as part of their undergraduate admissions process; or
2. Earning a state-recognized or nationally or internationally recognized business or industry certification or license.

Education Code 28.025(c-5); 19 TAC 74.14.

SEC. 3. TRANSFERS FROM OUT-OF-STATE OR NONPUBLIC SCHOOLS

An out-of-state or out-of-country transfer student (including foreign exchange students) or a transfer student from a Texas nonpublic school is eligible to receive a Moody Early Childhood Center diploma, but must complete all applicable high school graduation requirements. Any course credits required for graduation that are not completed before enrollment may be satisfied through credit by examination, correspondence courses, distance learning, or completing the course, according to the provisions of 19 Administrative Code 74.26. *19 TAC 74.51(f), .61(i).*

SEC. 4. STUDENTS RECEIVING SPECIAL EDUCATION SERVICES

a) Definitions

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“Modified curriculum” and “modified content” refer to any reduction of the amount or complexity of the required knowledge and skills in 19 Administrative Code Chapters 110–118, 126–128, and 130. Substitutions that are specifically authorized in statute or rule must not be considered modified curriculum or modified content. *19 TAC 89.1070(l)*.

“Employability and self-help skills” are those skills directly related to the preparation of students for employment, including general skills necessary to obtain or retain employment. *19 TAC 89.1070(j)*.

b) Summary of Academic Achievement and Evaluation

All students graduating must be provided with a summary of academic achievement and functional performance as described in 34 C.F.R. 300.305(e)(3). This summary must consider, as appropriate, the views of the parent and student and written recommendations from adult service agencies on how to assist the student in meeting postsecondary goals. An evaluation as required by 34 C.F.R. 300.305(e)(1) (evaluation to determine that the child is no longer a child with a disability), must be included as part of the summary for a student graduating under 19 Administrative Code 89.1070(b)(2)(A), (B), or (C) or (g)(4)(A), (B), or (C). Students who participate in graduation ceremonies but who are not graduating under subsections (b)(2)(A), (B), or (C) or (g)(4)(A), (B), or (C) and who will remain in school to complete their education do not have to be evaluated. *19 TAC 89.1070(h), (i)*.

c) Students Entering Grade 9 In or After the 2014-2015 School Year

A student entering grade 9 in the 2014–2015 school year and thereafter who receives special education services may graduate and be awarded a regular high school diploma if the student meets one of the following conditions:

1. The student has demonstrated mastery of the required state standards (or Moody Early Childhood Center standards if greater) in 19 Administrative Code Chapters 110-118, 126–128, and 130 and satisfactorily completed credit requirements for graduation under the foundation high school program specified in 19 Administrative Code 74.12 applicable to students in general education as well as satisfactory performance on the required state assessments, unless the student’s ARD committee has determined that satisfactory performance on the required state assessments is not necessary for graduation.
2. The student has demonstrated mastery of the required state standards (or Moody Early Childhood Center standards if greater) in 19 Administrative Code Chapters 110–118, 126–128, and 130 and satisfactorily completed credit requirements for graduation under the foundation high school program through courses, one or more of which contain modified curriculum that is aligned to the standards applicable to students in general education, as well as satisfactory performance on the required state assessments, unless the student’s ARD committee has determined that satisfactory performance on the required state assessments is not necessary for graduation. The student must also

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successfully complete the student’s Individualized Education Program (“IEP”) and meet one of the following conditions:

- a. Consistent with the IEP, the student has obtained fulltime employment, based on the student’s abilities and local employment opportunities, in addition to mastering sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of Moody Early Childhood Center.
- b. Consistent with the IEP, the student has demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of Moody Early Childhood Center.
- c. The student has access to services that are not within the legal responsibility of public education or employment or educational options for which the student has been prepared by the academic program.
- d. The student no longer meets age eligibility requirements.

When a student receives a diploma under item 2(a), (b), or (c), above, the ARD committee must determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age eligibility requirements.

19 TAC 89.1070(b), (k).

d) Endorsements

A student enrolled in a special education program may earn an endorsement on his or her transcript by:

1. Successfully completing, with or without modification of the curriculum:
 - a. The curriculum requirements identified by the State Board of Education for the foundation high school program; and
 - b. The additional endorsement curriculum requirements prescribed by the State Board of Education; and
2. Successfully completing all curriculum requirements for the endorsement adopted by the State Board of Education:
 - a. Without modification of the curriculum; or
 - b. With modification of the curriculum, provided that the modified curriculum is sufficiently rigorous as determined by the student’s ARD committee.

The ARD committee shall determine whether the student is required to achieve satisfactory performance on an EOC instrument to earn an endorsement on the student’s transcript.

Education Code 28.025(c-7)-(c-8).

SEC. 5. GRADUATION OF MILITARY DEPENDENTS

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a) Course Waiver Requirements

Moody Early Childhood Center shall waive specific courses required for graduation if similar coursework has been satisfactorily completed by a military student in another district, or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, Moody Early Childhood Center shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

b) Transfers During Senior Year

Should a military student transferring at the beginning or during the student's senior year be ineligible to graduate from Moody Early Childhood Center after all alternatives have been considered, the sending district and Moody Early Childhood Center shall ensure the receipt of a diploma from the sending district, if the student meets the graduation requirements of the sending district.

c) Passing Standard Substitutions

Moody Early Childhood Center may utilize a substitute passing standard adopted by the Commissioner on one or more national norm-referenced achievement tests for purposes of permitting a qualified military dependent to meet that standard as a substitute for completing a specific course otherwise required for graduation. The passing standard is available only for a student who enrolls in a public school in Texas for the first time after completing the ninth grade or who reenrolls in a Texas public school at or above the tenth grade level after an absence of at least two years from Texas public schools. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard.

Education Code 162.002 art. VII, §§ A, C.

SEC. 6. GRADUATION OF A STUDENT WHO IS HOMELESS OR IN CONSERVATORSHIP OF DFPS

If an 11th or 12th grade student who is homeless or in the conservatorship of the Department of Family and Protective Services transfers to Moody Early Childhood Center and the student is ineligible to graduate from Moody Early Childhood Center, the public school from which the student transferred shall award a diploma at the student's request, if the student meets the graduation requirements of the school from which the student transferred. *Education Code 28.025(i).*

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

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

19 TAC 101.3021(a).

SEC. 2. STUDENTS IN GRADE 8 OR LOWER

A student in grade 8 or lower who takes a high school course for credit is required to take the applicable EOC assessment. The EOC assessment result shall be applied toward the student’s assessment graduation requirements.

19 TAC 101.3021(d).

Middle school students who complete STARR EOC assessment requirements in a content area are required to take the ACT or the SAT at least once in high school to fulfill federal accountability requirements.

19 TAC 101.3011.

SEC. 3. ASSESSMENT REQUIREMENTS FOR GRADUATION

A student must meet satisfactory performance on a required EOC assessment only for a course in which the student is enrolled and for which an EOC assessment instrument is administered in order to be eligible to receive a Texas diploma.

a) Exceptions – English I or English II

A student who was administered separate reading and writing EOC assessments for the English I or English II course has met that course’s assessment graduation requirement if the student has:

1. Achieved satisfactory performance on either the reading or writing EOC assessment for that course;
2. Met at least the minimum score on the other EOC assessment for that course; and
3. Achieved an overall scale score of 3750 or greater when the scale scores for reading and writing are combined for that course.

Exceptions related to English I also apply to English language learners who meet the criteria in 19 TAC 101.1007.

19 TAC 101.3022(b), (c).

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b) Exceptions – Credits Earned Prior to Enrollment

If a student earned high school credit for a course with an EOC assessment prior to enrollment in a Texas public school and the credit has been accepted by a Texas public school, or a student completed a course for Texas high school credit in a course with an EOC assessment prior to the 2011–12 spring administration, the student is not required to take the corresponding EOC assessment.

19 TAC 101.3021(e), .3022.

SEC. 4. SUBSTITUTE ASSESSMENTS

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

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

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

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separate TSI reading or writing assessment may not be used to substitute for the corresponding English II reading or writing EOC assessment.

A student electing to substitute an assessment for graduation purposes must still take the required EOC assessment if the student does not meet the eligibility requirements above. If a student sits for an EOC assessment, Moody Early Childhood Center may not mark the substitute assessment bubble for that administration.

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

19 TAC 101.4002.

a) Verification of Results

An eligible student is responsible for providing Moody Early Childhood Center an official copy of the student's scores from the substitute assessment. Upon receipt of official results of an approved substitute assessment, Moody Early Childhood Center must:

1. Verify the student's score on the substitute assessment; and
2. Determine whether the student met the performance standard required to qualify for a public high school diploma in Texas as established by the Commissioner.

19 TAC 101.4005.

SEC. 5. SATISFACTORY PERFORMANCE

A student is required to achieve a scale score that indicates satisfactory performance, as determined by the Commissioner, on each EOC assessment instrument administered to the student.

Education Code 39.025(a).

SEC. 6. INDIVIDUAL GRADUATION COMMITTEE

A student in grade 11 or 12 who has failed to comply with the EOC assessment instrument performance requirements under Education Code 39.025 for not more than two courses may qualify to graduate on the basis of a review by an individual graduation committee (IGC).

Education Code 28.0258, 39.025(a-5).

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SEC. 7. SPECIAL EDUCATION

A student receiving special education services is not subject to the IGC requirements in Education Code 28.0258. As provided in 19 TAC 89.1070 (Graduation Requirements) and 19 TAC 101.3023 (Participation and Graduation Assessment Requirements for Students Receiving Special Education Services), a student’s admission, review and dismissal (“ARD”) committee determines whether a student is required to achieve satisfactory performance on an EOC assessment to graduate.

A student dismissed from a special education program who achieved satisfactory performance on an alternate EOC assessment while enrolled in a special education program is not required to take and achieve satisfactory performance on the general EOC assessment to graduate. A student who took an EOC assessment while enrolled in a special education program is not required to retake and achieve satisfactory performance on the EOC assessment if the student’s ARD committee determined that the student was not required to achieve satisfactory performance on the EOC assessment to graduate. A student dismissed from a special education program must achieve satisfactory performance on any remaining EOC assessments that the student is required to take. If the student fails to achieve satisfactory performance on no more than two of the remaining EOC assessments, the student is eligible for IGC review under Education Code 28.0258 and is subject to the IGC provisions above.

19 TAC 101.3022(f).

A student receiving special education services who successfully completes the requirements of his or her Individualized Education Program (“IEP”), including performance on a state assessment required for graduation, shall receive a Texas high school diploma. A student’s ARD committee shall determine if the student will be required to meet satisfactory performance on an assessment for purposes of graduation.

Beginning with the 2011–2012 school year, all grades 9–12 students with significant cognitive disabilities who are assessed with an alternate assessment as specified in the student’s IEP will be assessed using alternate versions of EOC assessments as listed in 19 TAC 101.3011(b)(2).

19 TAC 101.3023(a)-(b).

SEC. 8. CREDIT BY EXAMINATION

An EOC assessment administered under Education Code 39.023(c) cannot be used for purposes of credit by examination under 19 TAC 74.24.

19 TAC 101.3021(c).

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SEC. 9. RETAKES

Each time an EOC assessment instrument is administered, a student who failed to achieve a score requirement may retake the assessment instrument. A student is not required to retake a course as a condition of retaking an EOC assessment instrument. If a student failed a course but achieved satisfactory performance on the applicable EOC assessment, that student is not required to retake the assessment if the student is required to retake the course.

Education Code 39.025(b); 19 TAC 101.3021(f), .3022(d).

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SEC. 1. TUITION-FREE PROGRAM

If authorized by the Moody Early Childhood Center charter contract or subject to waiver by the Commissioner of Education, Moody Early Childhood Center shall offer tuition-free prekindergarten classes if it identifies 15 or more eligible children who are at least four years of age. Moody Early Childhood Center may offer tuition-free prekindergarten classes if it identifies 15 or more eligible children who are at least three years of age.

Education Code 29.153(a-1).

For purposes of this policy, “child” includes a stepchild and “parent” includes a stepparent.

a) Program Eligibility

A child is eligible for enrollment in free prekindergarten if the child is at least three years of age and:

1. Is unable to speak and comprehend the English language;
2. Is educationally disadvantaged;
3. Is homeless, regardless of the residence of the child, of either parent of the child, or of the child’s guardian or other person having lawful control;
4. Is the child of an active duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who is ordered to active duty by proper authority;
5. Is the child of a member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who was injured or killed while serving on active duty;
6. Is or ever has been in:
 - a. the conservatorship of the Department of Family and Protective Services (“DFPS”) following an adversary hearing under Family Code 262.201; or
 - b. foster care in another state or territory, if the child resides in this state; or
7. Is the child of a person eligible for the Star of Texas Award as:
 - a. A peace officer under Section 3106.002, Government Code;
 - b. A firefighter under Section 3106.003, Government Code; or
 - c. An emergency medical first responder under Section 3106.004, Government Code.

A child who is eligible for enrollment under item 4 or 5 above remains eligible if the child’s parent leaves the armed forces, or is no longer on active duty, after the child begins the prekindergarten class.

A child who is eligible for enrollment for free prekindergarten at the age of three and enrolls in prekindergarten class at the age of three remains eligible for enrollment in a prekindergarten class for the following school year.

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Education Code 29.153(a)-(b), (f)-(g).

b) Notice

The Executive Director shall develop a system to notify the population in the community with children eligible or enrollment of the availability of the program. The system must include public notices issued in English and Spanish.

c) Half-Day or Full-Day

A free prekindergarten class may be operated on a half-day basis for children under four years of age and shall be operated on a full-day basis for children who are at least four years of age.

d) Transportation

Moody Early Childhood Center is not required to provide transportation for a prekindergarten class. If transportation is provided, it is included for funding purposes as part of the regular transportation system.

Education Code 29.153, 29.1534.

e) High-Quality Prekindergarten Required

A free prekindergarten class for children who are at least four years of age must comply with the program standards required for high-quality prekindergarten programs under Education Code Chapter 29, Subchapter E-1.

f) Exemption

Moody Early Childhood Center may apply to the Commissioner for an exemption from the requirement that it provide a free prekindergarten program if Moody Early Childhood Center would be required to construct classroom facilities in order to provide the program or if implementing the program would result in fewer eligible children being enrolled in a prekindergarten class under Education Code 29.153.

Education Code 29.153(c-1)-(d-2).

g) Constructing, Repurposing, or Leasing a Facility

Before Moody Early Childhood Center may construct, repurpose, or lease a classroom facility, or issue bonds for the construction or repurposing of a classroom facility to provide prekindergarten classes, Moody Early Childhood Center must solicit and consider proposals for partnerships to provide those classes with community-based child-care providers who:

1. Are a Texas Rising Star Program provider with a three-star certification or higher;

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2. Are nationally accredited;
3. Are a Head Start program provider;
4. Are a Texas School Ready! participant; or
5. Meet the requirements under Education Code 29.1532.

Education Code 29.153(g).

SEC. 2. TUITION-SUPPORTED AND SCHOOL-FINANCED PREKINDERGARTEN

Moody Early Childhood Center may offer on a tuition basis or use school funds to provide:

1. An additional half-day of prekindergarten classes to children eligible for free prekindergarten who are under four years of age; and
2. Half-day and full-day prekindergarten classes to children not eligible for free prekindergarten.

Moody Early Childhood Center may not adopt a tuition rate for the program that is higher than necessary to cover the added costs of providing the program, including any costs associated with collecting, reporting, and analyzing data under Education Code 29.1532(c). Moody Early Childhood Center must submit its proposed tuition rate to the Commissioner for approval.

Education Code 29.1531.

SEC. 3. PROGRAM REQUIREMENTS

Moody Early Childhood Center’s prekindergarten program shall be designed to develop skills necessary for success in the regular public school curriculum, including language, mathematics, and social skills.

Education Code 29.1532(a).

i. Curriculum Requirements

Moody Early Childhood Center shall select and implement a high quality prekindergarten program for eligible children who are at least four years of age required to be provided free of tuition or fees. Moody Early Childhood Center shall select and implement a curriculum for a prekindergarten program that:

1. Includes the prekindergarten guidelines established by the Texas Education Agency (“TEA”);
2. Measures the progress of students in meeting the recommended learning outcomes; and
3. Does not use national curriculum standards developed by the Common Core State Standards Initiative.

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ii. Teacher Requirements

Each teacher for a prekindergarten program class must be certified under Education Code Chapter 21, Subchapter B and have one of the following additional qualification:

1. A Child Development Associate (CDA) credential or another early childhood education credential approved by the TEA;
2. Certification offered through a training center accredited by Association Montessori Internationale or through the Montessori Accreditation Council for Teacher Education;
3. At least eight years' experience of teaching in a nationally accredited child care program;
4. Be employed as a prekindergarten teacher in a school that has received approval from the Commissioner for a prekindergarten-specific instructional training plan that the teacher uses in the teacher's prekindergarten classroom; or
5. An equivalent qualification.

Moody Early Childhood Center may allow a prekindergarten teacher to receive the training required to be awarded a CDA credential from a regional education service center. Training may not include national curriculum standards developed by the Common Core State Standards Initiative.

Moody Early Childhood Center must attempt to maintain an average ratio in any prekindergarten class of not less than one certified teacher or teacher's aide for each 11 students.

Education Code 29.167.

iii. Family Engagement Plan

Moody Early Childhood Center shall develop and implement a family engagement plan to assist Moody Early Childhood Center in achieving and maintaining high levels of family involvement and positive family attitudes toward education. The family engagement plan must be based on family engagement strategies established by the TEA.

Education Code 29.168(a).

iv. Program Evaluation

Moody Early Childhood Center shall:

1. Select and implement appropriate methods for evaluating its prekindergarten classes by measuring student progress; and
2. Make data from the results of program evaluations available to parents.

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Moody Early Childhood Center may administer diagnostic assessments to prekindergarten students to evaluate student progress, but may not administer a state standardized assessment instrument.

An assessment instrument administered to prekindergarten students must be selected from a list of appropriate prekindergarten assessment instruments identified by the Commissioner.

Education Code 29.169.

v. Contracting with Private Entity

Moody Early Childhood Center may enter into a contract with an eligible private provider to provide services or equipment for its prekindergarten program. To be eligible to contract with Moody Early Childhood Center, a private provider must be licensed by and in good standing with the DFPS. A private provider is in good standing if the DFPS has not taken an action against the provider’s license during the 24-month period preceding the date of a contract with Moody Early Childhood Center. The private provider must also:

1. Be accredited by a research-based, nationally recognized, and universally accessible accreditation system approved by the Commissioner;
2. Be a Texas Rising Star Program provider with a three-star certification or higher;
3. Be a Texas School Ready! participant;
4. Have an existing partnership with a district to provide a prekindergarten program not provided under Education Code Chapter 29, Subchapter E-1; or
5. Be accredited by an organization that is recognized by the Texas Private School Accreditation Commission.

A prekindergarten program provided by a private provider is subject to the requirements of Education Code Chapter 29, Subchapter E-1.

Education Code 29.171.

vi. Shared Site

Before establishing a new prekindergarten program, Moody Early Childhood Center shall consider the possibility of sharing use of an existing Head Start or other child-care program site as a prekindergarten site.

Education Code 29.1533.

vii. Partner Licensing Standards

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If Moody Early Childhood Center contracts with a private entity to operate a prekindergarten program, the partner program shall comply at a minimum with the applicable child-care licensing standards adopted by the DFPS under Human Resources Code 42.042. *Education Code 29.1532(b)*.

viii. Daily Physical Activity

Students in full-day prekindergarten shall participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year, as part of Moody Early Childhood Center’s physical education curriculum or through structured activity during a campus’s daily recess.

To the extent practicable, students enrolled in prekindergarten on less than a full-day basis shall participate in the same type and amount of physical activity as a student enrolled in full-day prekindergarten.

If Moody Early Childhood Center determines that requiring moderate or vigorous daily physical activity is impractical due to scheduling concerns or other factors, Moody Early Childhood Center may require that students participate in moderate or vigorous physical activity for at least 135 minutes during each school week.

Moody Early Childhood Center must provide an exemption for a student who is unable to participate in the required physical activity because of illness or disability.

Education Code 28.002(l).

SEC. 4. PREKINDERGARTEN EXPANSION GRANT

Moody Early Childhood Center may use funds from grants administered by the Commissioner to expand an existing half-day prekindergarten program to a full-day basis or to implement a prekindergarten program on a campus that does not have a prekindergarten program. Moody Early Childhood Center may use funds received under this program to employ teachers and other personnel for a prekindergarten program or to acquire curriculum materials or equipment, including computers, for use in prekindergarten programs. Moody Early Childhood Center may use funds granted under this program in contracting with another entity, including a private entity. *Education Code 29.155*.

SEC. 5. READY TO READ GRANT

Moody Early Childhood Center may apply for a Ready to Read grant if at least 75% of the children enrolled in the prekindergarten program are low-income students, as determined by Commissioner rule.

Grant funds shall be used for:

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1. Professional staff development in prereading instruction;
2. Prereading curriculum and materials;
3. Prereading skills assessment materials; and
4. Employment of prereading instructors.

Education Code 29.157.

SEC. 6. COORDINATION OF SERVICES

In a manner consistent with federal law and regulations, Moody Early Childhood Center shall coordinate with the TEA, the Texas Workforce Commission, and local workforce development boards regarding subsidized child-care services.

Education Code 29.158(a).

SEC. 7. STATEWIDE INFORMATION AND REFERRAL NETWORK

Moody Early Childhood Center shall provide the Texas Information and Referral Network (“TIRN”) with information regarding eligibility for and availability of child-care and education services (including services provided through a prekindergarten or after-school program) for inclusion in the statewide information referral network. Moody Early Childhood Center shall provide the information in a form determined by the executive commissioner of the Texas Health and Human Services Commission.

Gov’t Code 531.0312.

“Child care and education services” includes any government-funded child-care and education services, other than education and services provided by a school district as part of the general program of public and secondary education, designed to educate or provide care for children under the age of 13 in middle-income or low-income families.

Gov’t Code 531.03131(a)(4).

When necessary, staff of the TIRN shall send an electronic mail message to Moody Early Childhood Center containing the name of and contact information for an applicant for child-care and education services and a description of the services the applicant is seeking.

On receipt of such an electronic mail message, Moody Early Childhood Center shall contact the applicant to verify information regarding the applicant’s eligibility for available child-care and education services and, on certifying eligibility, shall match the applicant with entities providing those services in the applicant’s community, including local workforce development boards, local child-care providers, or a Head Start or Early Head Start program provider.

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POLICY GROUP 2 – INSTRUCTION
PREKINDERGARTEN PROGRAM
Gov't Code 531.03131(d).

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Moody Early Childhood Center shall cooperate with the TIRN as necessary in the administration of this project.

Gov't Code 531.0312, 531.03131.

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POLICY GROUP 2 – INSTRUCTION

SELECTION AND ADOPTION OF INSTRUCTIONAL MATERIALS PG-2.7

SEC. 1. DEFINITIONS

“Instructional materials” means content that conveys the essential knowledge and skills of a subject in the school curriculum through a medium or a combination of media for conveying information to a student. The term includes a book, supplementary materials, a combination of a book, workbook and supplementary materials, computer software, magnetic media, DVD, CD-ROM, computer courseware, online services, or an electronic medium, or other means of conveying information to the student or otherwise contributing to the learning process through electronic means, including open education resource instructional material, as defined by Education Code 31.1002(1).

“Open education resource instructional material” means teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that allows for free use, reuse, modification, and sharing with others, including full courses, course materials, modules, textbooks, streaming videos, tests, software, and any other tools, materials, or techniques used to support access to knowledge.

Education Code 31.002(1-a).

“Technological equipment” is hardware, a device, or equipment necessary for instructional use in the classroom, including to gain access to or enhance the use of electronic instructional materials; or professional use by a classroom teacher.

Education Code 31.002(4).

SEC. 2. LOCAL SELECTION

Moody Early Childhood Center shall establish a team, as needed, to select instructional materials and technological equipment to be purchased with Moody Early Childhood Center’s instructional materials allotment. The team shall make selections based upon Moody Early Childhood Center’s instructional needs and in accordance with administrative regulations.

The instructional materials allotment team shall ensure that selected materials, in combination with any other materials in use by Moody Early Childhood Center, allow Moody Early Childhood Center to certify that all students are provided with instructional materials that cover the essential knowledge and skills, as required by law.

The Board shall select instructional materials in an open meeting as required by the Texas Open Meetings Act, including public notice.

19 TAC 66.104(a).

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SELECTION AND ADOPTION OF INSTRUCTIONAL MATERIALS

PG-2.7

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

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

Education Code 31.101(a).

i. Foundation Curriculum

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

Education Code 31.101(a)(1).

ii. Enrichment Textbooks

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

Education Code 31.101(a)(2).

iii. Open Education Resource Instructional Materials

In selecting material each year, Moody Early Childhood Center may consider the use of open education resource instructional materials.

Education Code 31.073.

Moody Early Childhood Center may adopt state-developed open education resource instructional materials at any time, regardless of the instructional material review and adoption cycle.

Education Code 37.073(c).

b) Supplemental Materials

The Board may select supplemental instructional materials adopted by the SBOE, as set forth at Education Code 31.035. If the Board selects supplemental instructional materials, Moody Early Childhood Center shall certify to Texas Education Agency (“TEA”) that the supplemental instructional materials, in combination with any other instructional materials or supplemental

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instructional materials used by Moody Early Childhood Center, cover the essential knowledge and skills for the course.

Education Code 31.035(d), (f).

c) Special Education

Adopted instructional materials shall be supplied to a student in special education classes as appropriate to the level of the student’s ability and without regard to the grade for which the instructional material is adopted or the grade in which the student is enrolled.

19 TAC 66.104(c).

d) Duration of Selection

i. Listed Materials

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

1. Moody Early Childhood Center has used the instructional material for at least one school year; and
2. TEA approves the change based on a written request to TEA by Moody Early Childhood Center that specifies the reasons for changing the electronic textbook or instructional material used by Moody Early Childhood Center.

Education Code 31.101(e).

ii. Other Materials

For instructional material that is not on the instructional materials list, Moody Early Childhood Center must use the instructional materials for the period of the review and adoption cycle the SBOE has established for the subject and grade level for which the instruction material is used.

Education Code 31.101(d).

SEC. 3. OWNERSHIP AND DISTRIBUTION OF INSTRUCTIONAL MATERIALS

Each instructional material purchased by Moody Early Childhood Center is the property of Moody Early Childhood Center. Electronic instructional material purchased by Moody Early Childhood Center is the property of Moody Early Childhood Center only to the extent of any

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SELECTION AND ADOPTION OF INSTRUCTIONAL MATERIALS PG-2.7

applicable licensing agreement. The Board shall distribute printed instructional material to students in a manner that the Board determines is the most effective and economical.

Education Code 31.102.

SEC. 4. CRIMINAL OFFENSE

A Board member, administrator, or teacher commits an offense if the person receives any commission or rebate on any instructional materials or technological equipment used in the schools with which the person is associated.

A Board member, administrator, or teacher commits an offense if the person accepts a gift, favor, or service that:

1. Is given to the person or the person's school;
2. Might reasonably tend to influence the person in the selection of instructional material or technological equipment; and
3. Could not be lawfully purchased with funds from the state textbook fund.

“Gift, favor, or service” does not include:

1. Staff development, in-service, or teacher training; or
2. Ancillary materials, such as maps or worksheets, that convey information to the student or otherwise contribute to the learning process.

Education Code 31.152.

SEC. 5. REQUESTS FOR SUPPLIES

Employees should initiate requests for instructional supplies through the Executive Director.

SEC. 6. EMPLOYEE TRAINING

The Board shall require the employee responsible for ordering instructional materials to complete TEA-developed training in the use of the Instructional Materials Allotment and the use of the instructional materials ordering system. Training shall be completed in accordance with 19 TAC 66.107(d).

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**POLICY GROUP 2 – INSTRUCTION
MAKE-UP WORK**

PG-2.8

Students shall be expected to make up assignments and tests after absences. Students shall receive a zero for any assignment or test not made up within the allotted time.

Teachers may assign additional work to ensure that students who have been absent have sufficient opportunity to master the Texas Essential Knowledge and Skills (TEKS) or to meet subject or course requirements. The assignments shall be based on the instructional objectives for the subject or course and may provide greater depth of subject matter than routine make-up work.

SEC. 1. TESTS AND MAKEUP WORK

Students shall be permitted to take tests administered in any class missed because of absence.

For any class missed, the teacher may assign the student make-up work based on the instructional objectives for the subject or course and the needs of the individual student in mastering the essential knowledge and skills or in meeting subject or course requirements.

A student shall be responsible for obtaining and completing the make-up work in a satisfactory manner and within the time specified by the teacher.

SEC. 2. LATE PROJECTS

Teachers may assign a late penalty to any project turned in after the due date in accordance with previously established guidelines approved by the Executive Director or Executive Director's designee and disseminated to students.

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**POLICY GROUP 2 – INSTRUCTION
ACADEMIC TESTING PROGRAMS**

PG-2.9

SEC. 1. LOCAL TESTING

In addition to the state-administered assessment instruments, Moody Early Childhood Center may adopt and administer criterion-referenced or norm-referenced assessment instruments, or both, at any grade level. Any such locally adopted norm-referenced assessment instrument must be economical, nationally recognized, and state-approved.

For purposes of this Policy, “assessment instrument” means a Moody Early Childhood Center-commissioned achievement test, either nationally normed or criterion-referenced, that is group administered and reported publicly (such as to the Board) in the aggregate.

A company or organization scoring an assessment instrument shall send test results to Moody Early Childhood Center for verification. Moody Early Childhood Center shall have 90 days to verify the accuracy of test data and report the results to the Board.

Moody Early Childhood Center shall follow procedures for test security and confidentiality set forth in 19 TAC Chapter 101, Subchapter C.

Education Code 39.026, .032; 19 TAC 101.101.

a) Limits on Local Testing

In a subject area for which a state assessment is administered, Moody Early Childhood Center may not administer locally required assessments designed to prepare students for state-administered assessments to any student on more than 10% of the instructional days in any school year. A campus-level planning and decision-making committee may limit the administration of locally required assessments to 10% or a lower percentage of the instructional days in any school year. This prohibition does not apply to the administration of college preparation assessments, advanced placement tests, international baccalaureate examinations, or state assessments.

Education Code 39.0262.

SEC. 2. BENCHMARK ASSESSMENT INSTRUMENTS

“Benchmark assessment instrument” means a Moody Early Childhood Center-required assessment instrument designed to prepare students for a corresponding state-administered assessment instrument. An assessment instrument designed to prepare students for state-administered assessment instruments is one that:

1. Evaluates students’ potential performance relative to the state’s blueprint in whole for a state-administered assessment; or
2. Is primarily focused on test-taking techniques.

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It does not include an assessment designed to evaluate students' mastery of parts of the Texas Essential Knowledge and Skills or the efficacy of instructional practice.

Moody Early Childhood Center may not administer to any student more than two benchmark assessment instruments to prepare the student for a corresponding state-administered assessment instrument.

This prohibition does not apply to the administration of a college preparation assessment instrument, including the PSAT, the ACT-Plan, the SAT, or the ACT, an advanced placement test, an international baccalaureate examination, or an independent classroom examination designed or adopted and administered by a classroom teacher.

A parent of or person standing in parental relation to a student who has special needs, as determined in accordance with Commissioner of Education rule, may request administration to the student of additional benchmark assessment instruments.

Education Code 39.0263; 19 TAC 101.6003.

SEC. 3. COLLEGE PREPARATION ASSESSMENTS

Each school year, and at state cost, Moody Early Childhood Center may administer an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument:

1. To students in the spring of the eighth grade for the purpose of diagnosing the academic strengths and deficiencies of students before entrance into high school; and
2. To students in the tenth grade for the purpose of measuring a student's progress toward readiness for college and the workplace.

The provisions of Education Code 39.0261(a)(1) and (a)(2), with respect to the administration of college preparation assessment instruments at state cost, apply only if the legislature appropriates funds for those purposes.

Education Code 39.0261(a)(1)-(a)(2), (f).

High school students, in the spring of the eleventh grade or during the twelfth grade, may select and take once, at state cost:

1. One of the valid, reliable, and nationally norm-referenced assessment instruments used by colleges and universities as part of their undergraduate admissions processes; or
2. The assessment instrument designated by the Texas Higher Education Coordinating Board under Education Code 51.334.

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**POLICY GROUP 2 – INSTRUCTION
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A high school student is not prohibited from taking a test more than once, at his or her own expense.

Education Code 39.0261(a)(3), (e).

SEC. 4. ARMED SERVICES VOCATIONAL APTITUDE BATTERY TEST

Each school year, Moody Early Childhood Center shall provide students in grades 10 through 12 an opportunity to take the Armed Services Vocational Aptitude Battery test (“ASVAB”) test and consult with a military recruiter.

The test must be scheduled:

1. During normal school hours; and
2. At a time that limits conflicts with extracurricular activities, to optimize student participation.

Moody Early Childhood Center shall provide each student in grades 10 through 12 and the student’s parent or person standing in parental relation to the student a notice of the date, time, and location of the scheduled administration of the ASVAB test.

Moody Early Childhood Center may elect not to provide the ASVAB test only if it provides an alternative test that:

1. Assesses a student’s aptitude for success in a career field other than a career field that requires postsecondary education;
2. Is free to administer;
3. Requires minimal training and support of Moody Early Childhood Center faculty and staff to administer the test; and
4. Provides the student with a professional interpretation of the test results that allows the student to explore occupations that are consistent with the student’s interests and skills and develop strategies to attain the student’s career goals.

Education Code 29.9015.

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**POLICY GROUP 2 – INSTRUCTION
CAREER AND TECHNOLOGY EDUCATION**

PG-2.10

SEC. 1. CAREER AND TECHNOLOGY PROGRAM

The Board may conduct and supervise career and technology classes and other educational programs for students and spend local maintenance funds for the cost of those classes and programs. In developing a career and technology program, the Board shall consider the state plan for career and technology education.

Education Code 29.183.

SEC. 2. DISTINGUISHED ACHIEVEMENT IN CAREER AND TECHNOLOGY EDUCATION

The Board may develop and offer a program that provides a rigorous course of study consistent with the required curriculum and under which a student may:

1. Receive specific education in a career and technology profession that leads to postsecondary education or meets or exceeds business or industry standards; and
2. Obtain from Moody Early Childhood Center an award for distinguished achievement in career and technology education and a stamp or other notation on the student's transcript that indicates receipt of the award.

An award granted under this provision is not in lieu of a diploma or certificate of coursework completion.

a) Contracts with Other Entities

The Board may contract with an entity identified in Education Code 29.184(a) for assistance in developing the program or providing instruction to students participating in the program. The Board may also contract with a local business or a local institution of higher education for assistance in developing or operating a career and technology education program. A program may provide education in areas of technology unique to the local area.

Education Code 29.187.

b) Insurance

If a business that contracts with Moody Early Childhood Center obtains any insurance related to the student other than liability insurance, any proceeds of the insurance must be used for the benefit of the student and the student's family.

Education Code 29.187(g).

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**POLICY GROUP 2 – INSTRUCTION
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PG-2.10

SEC. 3. PROVIDING CAREER AND TECHNICAL EDUCATION

The following provisions apply only if Moody Early Childhood Center receives federal career and technical education funds.

19 TAC 75.1021.

a) Students with Disabilities

A student with a disability shall be provided career and technical education in accordance with all applicable federal law and regulations including the Individuals with Disabilities Education Act (“IDEA”) and its implementing regulations, state statutes, and rules of the State Board of Education and the Commissioner of Education (“Commissioner”).

A student with a disability shall be instructed in accordance with the student’s Individualized Education Program (“IEP”), in the least restrictive environment, as determined by the student’s admission, review and dismissal (“ARD”) committee. If a student with a disability is unable to receive a free appropriate public education (educational benefit) in a regular career and technical education program, using supplementary aids and services, the student may be served in separate programs designed to address the student’s occupational/training needs, such as career and technical education for students with disabilities.

A student with a disability identified in accordance with the IDEA is an eligible participant in career and technical education when the following requirements are met:

1. The ARD committee shall include a representative from career and technical education, preferably the teacher, when considering initial or continued placement of a student in career and technical education program;
2. Planning for the student shall be coordinated among career and technical education, special education, and state rehabilitation agencies and should include a coherent sequence of courses;
3. Moody Early Childhood Center shall monitor to determine if the instruction being provided to a student with a disability in career and technical education classes is consistent with the student’s IEP;
4. Moody Early Childhood Center shall provide supplementary services that each student with a disability needs to successfully complete a career and technical education program, such as curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices;
5. Moody Early Childhood Center shall help fulfill the transitional service requirements of the IDEA and implementing regulations, state statutes, and rules of the Commissioner for each student with a disability who is completing a coherent sequence of career and technical education courses.

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6. When determining placement in a career and technical education classroom, the ARD committee shall consider a student's graduation plan, the content of the individual transition plan, the IEP, including the consideration of transition services, and classroom supports. Enrollment numbers should not create a harmful effect on student learning for a student with or without disabilities in accordance with the provisions in the IDEA and its implementing regulations.

19 TAC 75.1023.

b) Student Organizations

Moody Early Childhood Center may use federal career and technical education funds to provide opportunities for student participation in approved student leadership organizations and assist career and technical student organizations in accordance with all applicable federal and state laws, rules, and regulations. However, students shall not be required to join such an organization. Student participation in career and technical student organizations shall be governed in accordance with 19 TAC Chapter 76 (relating to extracurricular activities).

The following career and technical student organizations are recognized by the U.S. Department of Education and the TEA:

1. Business Professionals of America (BPA);
2. DECA;
3. Future Business Leaders of America (FBLA);
4. Future Educators Association (FEA);
5. FFA;
6. Family, Career, and Community Leaders of America (FCCLA);
7. Health Occupations Students of America (HOSA);
8. Technology Student Association (TSA); and
9. Skills USA.

19 TAC 75.1024.

c) Program Evaluation

Moody Early Childhood Center shall annually evaluate its career and technical education programs.

19 TAC 75.1025.

d) Annual Notification

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Prior to the beginning of each school year, the Executive Director shall advise students, parents, employees, and the general public that all career and technical education opportunities will be offered without regard to race, color, national origin, sex, or disability. Such notification shall comply with the guidelines provided by the *Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex, and Handicap*, published by the Office for Civil Rights.

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**POLICY GROUP 2 – INSTRUCTION
COMPENSATORY INSTRUCTION**

PG-2.11

SEC. 1. COMPENSATORY SERVICES IN GENERAL

Students at all grade levels who have been identified as being at-risk of dropping out of school, who are not performing at grade level, or who did not perform satisfactorily on a state-mandated assessment will be provided accelerated and/or compensatory educational services in accordance with applicable law and based on needs assessment. The Executive Director or Executive Director's designees are responsible for ensuring that each identified student receives such appropriate accelerated and/or compensatory services.

The services provided to each identified student shall be consistent with Moody Early Childhood Center's goals and strategies for assisting students in need of academic assistance, and shall be reviewed for effectiveness at the close of each grading period.

Parents shall be encouraged to participate in the planning of educational services for their child and shall be kept informed regarding the child's progress toward educational goals. Parents of students who are not successful in meeting requirements for promotion shall be informed of any available options, such as an extended year program or summer school.

SEC. 2. COMPENSATORY EDUCATION ALLOTMENT

On a schedule adopted by the Commissioner of Education ("Commissioner"), Moody Early Childhood Center shall report to the Texas Education Agency ("TEA") the census block group in which each student enrolled in Moody Early Childhood Center who is educationally disadvantaged resides.

Education Code 48.104(i).

a) Use

At least 55% of Moody Early Childhood Center's compensatory education funds must be used to:

1. Fund supplemental programs and services designed to eliminate any disparity in performance on assessment instruments administered under Education Code Chapter 39, Subchapter B or disparity in the rates of high school completion between:
 - a. Students who are educationally disadvantaged and students who are not educationally disadvantaged; and
 - b. Students at risk of dropping out of school and all other students; or
2. Support a program eligible under Title I of the ESEA and its subsequent amendments, and by federal regulations implementing the ESEA.

Education Code 48.104(i), (k).

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SEC. 3. DROPOUT PREVENTION STRATEGIES

Upon request from the Commissioner, Moody Early Childhood Center shall submit a plan describing the manner in which Moody Early Childhood Center intends to use its compensatory education allotment for developing and implementing research-based strategies for dropout prevention.

Moody Early Childhood Center shall submit its plan no later than December 1 of each school year preceding the school year in which Moody Early Childhood Center will receive the compensatory education allotment to which the plan applies.

Moody Early Childhood Center may not spend or obligate more than 25% of its compensatory education or high school allotment without approval by the Commissioner.

A plan required by the Commissioner shall:

1. Design a dropout recovery plan that includes career and technology education courses or technology applications courses that lead to industry or career certification;
2. Integrate into the dropout recovery plan research-based strategies to assist students in becoming able academically to pursue postsecondary education, including:
 - a. High-quality, college readiness instruction with strong academic and social supports;
 - b. Secondary to postsecondary bridging that builds college readiness skills, provides a plan for college completion, and ensures transition counseling; and
 - c. Information concerning appropriate supports available in the first year of postsecondary enrollment to ensure postsecondary persistence and success, to the extent funds are available for that purpose; and
3. Plan to offer advanced academic and transition opportunities, including dual credit courses and college preparatory courses, such as advanced placement courses.

Moody Early Childhood Center may enter into a partnership with a public junior college in order to fulfill a plan, in accordance with Education Code 29.402.

Any program designed to fulfill a plan must comply with the requirements of Education Code 29.081(e) and (f).

Education Code 29.918.

SEC. 4. ACCELERATED READING INSTRUCTION PROGRAM

Moody Early Childhood Center shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to each student in kindergarten, first grade, or second grade who is determined, on the basis of reading instrument results, to be at

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risk for dyslexia or other reading difficulties. The Executive Director shall determine the form, content, and timing of the program.

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

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

SEC. 5. INTENSIVE PROGRAM OF INSTRUCTION

a) State Assessments

Moody Early Childhood Center shall offer an intensive program of instruction to a student who does not perform satisfactorily on a state assessment instrument or is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade nine, as determined by Moody Early Childhood Center. The program shall be designed to:

1. Enable the student to:
 - a. To the extent practicable, perform at the student's grade level at the conclusion of the next regular school term; or
 - b. Attain a standard of annual growth specified by Moody Early Childhood Center and reported by Moody Early Childhood Center to TEA; and
2. If applicable, carry out the purposes of Education Code 28.0211.

b) Students Receiving Special Education Services

For a student in a special education program who does not perform satisfactorily on a state assessment instrument, the student's admission, review, and dismissal committee shall design the program to:

1. Enable the student to attain a standard of annual growth on the basis of the student's individualized education program; and
2. If applicable, carry out the purposes of Education Code 28.0211.

c) Graduation Requirements

Moody Early Childhood Center shall use funds appropriated by the legislature for an intensive program of instruction to plan and implement intensive instruction and other activities aimed at helping a student satisfy state and local high school graduation requirements.

d) Final Determination

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Moody Early Childhood Center’s determination of the appropriateness of an intensive program of instruction for a student is final.

Education Code 28.0213.

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POLICY GROUP 2 – INSTRUCTION
CREDIT BY EXAMINATION

PG-2.12

SEC. 1. CREDIT BY EXAMINATION (WITH PRIOR INSTRUCTION)

The Executive Director or Executive Director's designee (or a student's attendance committee, as applicable) has authority to offer a student in any of grades 6–12 credit for an academic subject in which the student had some prior instruction if the student scores 70% on a criterion-referenced test approved by the Board for the particular course. In order to obtain credit by examination with prior instruction, a student in any of grades 6–12 must also satisfy the following local requirements:

Any criterion-referenced test approved by the Board shall assess the student's mastery of the essential knowledge and skills and shall be administered according to established Moody Early Childhood Center procedures.

Prior to offering a student an opportunity to demonstrate mastery or earn credit by this method, an appropriate Moody Early Childhood Center employee shall review the student's records to determine whether the student has had prior instruction in the subject or course.

19 TAC 74.24(c)(12).

SEC. 2. CREDIT BY EXAMINATION (WITHOUT PRIOR INSTRUCTION)

With Board approval, Moody Early Childhood Center shall develop or purchase examinations for acceleration that thoroughly test the essential knowledge and skills for each primary school grade level and for credit for secondary school academic subjects.

a) Kindergarten Acceleration

The Board shall approve procedures developed by the Executive Director or designee (in accordance with State Board of Education ("SBOE") rules) to allow a child who is five years old at the beginning of the school year to be assigned initially to First Grade rather than Kindergarten. Criteria for acceleration may include:

1. Scores on readiness tests or achievement tests that may be administered by appropriate Moody Early Childhood Center personnel.
2. Recommendation of the kindergarten or preschool the student has attended.
3. Chronological age and observed social and emotional development of the student.
4. Other criteria deemed appropriate by the Executive Director or Executive Director's designee and Executive Director.

19 TAC 74.24(b)(1).

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b) Grade 1 through Grade 5

The Board shall approve procedures developed by the Executive Director or designee (in accordance with SBOE rules) to accelerate a student in grades 1–5 one grade if the student meets the following requirements:

1. The student scores 80% or above on a criterion-referenced test for the grade level to be skipped in each of the following areas: language arts, mathematics, science, and social studies;
2. A Moody Early Childhood Center representative recommends that the student accelerate; and
3. The student’s parent gives written approval of the acceleration.

19 TAC 74.24(b)(2).

c) Grade 6 through Grade 12

Moody Early Childhood Center shall give a student in grades 6–12 for an academic subject in which he or she has not had prior instruction if the student scores:

1. A three or higher on a College Board advanced placement examination that has been approved by the Board for the applicable course;
2. A scaled score of 50 or higher on an examination administered through the College-Level Examination Program and approved by the Board for the applicable course; or
3. 80% on any other criterion-referenced test approved by the Board for the applicable course.

19 TAC 74.24(c)(8).

For each high school course, the Board shall approve at least four examinations that shall include College Board advanced placement examinations and examinations administered through the College-Level Examinations Program. The approved examinations may include those developed by:

1. Texas Tech University;
2. The University of Texas at Austin;
3. Moody Early Childhood Center; or
4. Another entity if the assessment meets all requirements under 19 TAC 74.26(c)(2).

19 TAC 74.24(c)(1)-(2).

A student may not attempt to earn credit by examination for a specific high school course more than two times. If a student fails to earn credit by examination for a specific high school course

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before the beginning of the school year in which the student would ordinarily be required to enroll in that course in accordance with Moody Early Childhood Center's prescribed course sequence, the student must satisfactorily complete the course to receive credit for the course.

19 TAC 74.24(c)(9)-(10).

d) Fees

Moody Early Childhood Center shall not charge for a Board-approved examination for acceleration for each primary school grade level or for credit for secondary school academic subjects. If a parent requests an alternative examination, Moody Early Childhood Center may administer and recognize results of a test purchased by the parent or student from Texas Tech University or the University of Texas at Austin.

19 TAC 74.24(a)(3).

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SEC. 1. COLLEGE CREDIT PROGRAM

a) Program Requirements

If allowed by its open-enrollment charter, Moody Early Childhood Center may implement a program under which students may earn the equivalent of at least 12 semester credit hours of college credit in high school. The college credit may be earned through:

1. International baccalaureate, advanced placement, or dual credit courses;
2. Articulated postsecondary courses provided for local credit or articulated postsecondary advanced technical credit courses provided for state credit; or
3. Any combination of the courses in items 1 and 2.

The program may provide a student the opportunity to earn credit for a course or activity, including apprenticeship or training hours:

1. That satisfies a requirement necessary to obtain an industry-recognized credential or certificate or an associate degree, and is approved by the Texas Higher Education Coordinating Board (“THECB”); and
2. For which a student may earn credit concurrently toward both the student’s high school diploma and postsecondary academic requirements.

A dual credit course must be:

1. In the core curriculum of the public institution of higher education providing college credit;
2. A career and technical education course; or
3. A foreign language course.

These requirements do not apply to a dual credit course offered as part of the early college education program established under Education Code 29.908 or any other early college program that assists a student in earning a certificate or an associate degree while in high school.

Moody Early Childhood Center is not required to pay a student’s tuition or other associated costs for taking a course under this policy.

Education Code 28.009.

b) Eligible Course Requirements

To be eligible for high school credit, a dual credit course must be provided by an institution of higher education that is accredited by any of the following regional accrediting associations:

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1. Southern Association of Colleges and Schools;
2. Middle States Association of Colleges and Schools;
3. New England Association of Schools and Colleges;
4. North Central Association of Colleges and Schools;
5. Western Association of Schools and Colleges; or
6. Northwest Association of Schools and Colleges.

Additionally, the course shall provide advanced academic instruction beyond or in greater depth than the essential knowledge and skills for the equivalent high school course.

19 TAC 74.25.

SEC. 2. STUDENT ELIGIBILITY FOR DUAL CREDIT COURSES

A high school student is eligible to enroll in academic dual credit courses and workforce education dual credit courses as permitted by 19 Administrative Code 4.85(b). To be eligible for enrollment in a dual credit course offered by a public college, students must meet all the college's regular prerequisite requirements designated for that course (e.g., minimum score on a specified placement test, minimum grade in a specified previous course, etc.). An institution may impose additional requirements for enrollment in courses for dual credit.

19 TAC 4.85(b).

a) Partnership Programs

An eligible student may enroll in a partnership program with a Texas college or university in accordance with an agreement between Moody Early Childhood Center and the college or university. Moody Early Childhood Center shall award credit toward high school graduation in accordance with the agreement between Moody Early Childhood Center and the college or university.

b) Other College-Level Courses

Moody Early Childhood Center may award a student credit for completing a college-level course at an accredited college or university that is not in a partnership program with Moody Early Childhood Center. Award of credit shall be based on administrator approval in accordance with guidelines established by the Executive Director or designee.

c) Texas Virtual School Network

According to guidelines established by the Texas Virtual School Network (TxVSN) and the course provider, Moody Early Childhood Center may enroll a student in college-level courses

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through the TxVSN. When the student successfully completes a course, credit shall be applied toward graduation requirements.

SEC. 3. ATTENDANCE ACCOUNTING

The time that a student attends a dual credit course, including a course provided under the college credit program, shall be counted as part of the minimum instructional hours required for a student to be considered a full-time student in average daily attendance.

Education Code 48.005(g).

Additionally, the Commissioner of Education may approve instructional programs provided off campus by an entity other than Moody Early Childhood Center in which participation by a student may be counted for purposes of determining average daily attendance.

Education Code 48.007(a).

Moody Early Childhood Center may adopt a policy that allows a student to participate in an off-campus instructional program. The program must be provided only by an institution of higher education that is accredited by one of the regional accrediting associations specified in 19 TAC 74.25.

To be eligible, a student must:

1. Be in grade 11 or 12;
2. Have demonstrated college readiness as outlined in the requirements for participation in dual credit programs in the Student Attendance Accounting Handbook;
3. Meet any eligibility requirements adopted by the institution of higher education; and
4. Have the approval of the Executive Director or other school official designated by Moody Early Childhood Center.

The off-campus program must comply with rules adopted by the THECB in the Texas Administrative Code, Title 19, Part 1, with respect to teacher qualifications.

19 TAC 129.1031.

SEC. 4. ANNUAL REPORTS

Moody Early Childhood Center shall annually report to the TEA:

1. The number of Moody Early Childhood Center students, including career and technical students, who have participated in the program and earned college credit; and
2. The cumulative number of courses in which participating students have enrolled and college credit hours the students have earned.

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Education Code 28.009(c).

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GIFTED AND TALENTED PROGRAM**

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SEC. 1. GIFTED AND TALENTED PROGRAM

If allowed by the Moody Early Childhood Center charter, the Executive Director shall develop a gifted and talented program that is approved by the Board and disseminated to parents. The program shall provide an array of learning opportunities for gifted/talented students in kindergarten through grade 12 and shall inform parents of the opportunities. Options shall include:

1. Instructional and organizational patterns that enable identified students to work together as a group, to work with other students, and to work independently;
2. A continuum of leaning experiences that leads to the development of advanced-level products and performances;
3. In-school and, when possible, out-of-school options relevant to the student's area of strength that are available during the entire school year; and
4. Opportunities to accelerate in areas of strength.

19 TAC 89.1, 89.3.

For purposes of this policy, “gifted and talented student” means a child or youth who performs at or shows the potential for performing at a remarkably high level of accomplishment when compared to others of the same age, experience, or environment and who:

1. Exhibits high performance capability in an intellectual, creative, or artistic area;
2. Possesses an unusual capacity for leadership; or
3. Excels in a specific academic field.

Education Code 29.121.

SEC. 2. PROGRAM REQUIREMENTS

The program developed by the Executive Director shall incorporate the following requirements:

a) Nomination

Students may be nominated or referred for the gifted and talented program at any time by teachers, counselors, parents, or other interested persons.

b) Conferences

Conferences shall be held with nominated students and their parent(s), if appropriate, to determine if the students are interested in the program.

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c) Screening and Identification Process

Assessment opportunities related to the screening and identification process for nominated and referred students shall be conducted at least once per school year.

d) Parental Consent

Written parental consent shall be obtained before any special testing or individual assessment is conducted as part of the screening and identification process. All student information collected during the screening and identification process shall be an educational record, subject to the protections of the Family Educational Rights and Privacy Act.

e) Identification

The program shall establish criteria to identify gifted and talented students. The criteria shall conform to the state definition of gifted and talented, and shall ensure the fair assessment of students with special needs, including the culturally different, the economically disadvantaged, and students with disabilities.

f) Assessments

Individual eligibility for the program shall be determined from data collected through both objective and subjective assessments measured against the criteria approved by the Board. Assessment tools may include, but are not limited to, achievement tests, creativity tests, behavioral checklists completed by teachers and parents, teacher nominations, student/parent conferences, and available student work product.

g) Selection

Each Moody Early Childhood Center campus shall establish a selection committee to evaluate each nominated student according to the established criteria. The selection committee shall be composed of at least three educators who have received training in the nature and needs of gifted students. The selection committee shall select those students for whom the gifted and talented program is the most appropriate educational setting.

h) Selection Notification

Parents and students shall be notified in writing upon selection of the student for the gifted and talented program. Participation in any program or services provided for gifted students is voluntary. Moody Early Childhood Center shall obtain written permission from the parent(s) before placing a student in the program.

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i) Reassessment

Moody Early Childhood Center shall reassess students to determine appropriate program placement when a student moves from the elementary level to the middle school level, and from the middle school level to high school.

j) Transfer Students

When a student identified as gifted by a previous Texas public school enrolls in Moody Early Childhood Center, the student's records shall be reviewed by the appropriate selection committee to determine if placement in the Moody Early Childhood Center gifted and talented program is appropriate. If the transferring student's records are limited or not available, or if the identification criteria for placement in the program for gifted and talented students at the previous school are not comparable to Moody Early Childhood Center's, the standard procedures for identifying gifted and talented students shall be employed.

The selection committee shall make its determination within 30 days of the student's enrollment in Moody Early Childhood Center, and shall base its decision on the transferred records, observation reports of Moody Early Childhood Center teachers who instruct the student, and student and parent conferences.

k) Furloughs

Any student who is unable to maintain satisfactory performance or whose educational needs are not being met within the gifted and talented program may be placed on furlough. Moody Early Childhood Center, a parent, or the student may initiate a furlough.

The selection committee shall document the specific reasons for granting the furlough and the time period for which the furlough shall last. At the end of a furlough, the student may reenter the program, be placed on another furlough, or be exited from the program.

l) Program Exit

Student performance in the program shall be monitored. The selection committee may exit a student from the program at any time if the selection committee determines it is in the student's best interest and his or her educational needs. If a student or parent requests removal from the program, the selection committee shall meet with the parent and student before granting the request.

m) Appeals

A parent or student may appeal a final decision of the selection committee regarding selection for or removal from the gifted and talented program. Appeals shall first be made to the selection

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committee. Any subsequent appeals shall be made in accordance with the policy on Parent and Student Complaints, beginning at Level One.

SEC. 3. GIFTED AND TALENTED TEACHERS

The Executive Director shall ensure that:

1. Prior to assignment in the program, teachers who provide instruction and services that are part of the program for gifted students have a minimum of 30 hours of staff development that includes nature and needs of gifted/talented students, assessing student needs, and curriculum and instruction for gifted students;
2. Teachers without the required training who provide instruction and services that are part of the gifted and talented program complete the 30-hour training requirement within one semester;
3. Teachers who provide instruction and services that are part of the program receive a minimum of six hours annually of professional development in gifted education; and
4. Administrators and counselors who have authority for program decisions have a minimum of six hours of professional development that includes nature and needs of gifted/talented students and program options.

19 TAC 89.2.

SEC. 4. PROGRAM EVALUATION

The gifted and talented program shall be evaluated annually, and evaluation information shall be shared with Board members, administrators, teachers, counselors, students in the gifted and talented program, and the community. Evaluation information shall also be used to modify and update the program.

SEC. 5. COMMUNITY AWARENESS

The Executive Director shall ensure that information about the Moody Early Childhood Center gifted and talented program is available to parents and community members, and that they have an opportunity to develop an understanding of and support for the program.

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**POLICY GROUP 2 – INSTRUCTION
HOMEBOUND SERVICES**

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SEC. 1. GENERAL HOMEBOUND EDUCATION

In accordance with the Texas Education Agency’s *Student Attendance Accounting Handbook* (SAAH), a student may be eligible for general education homebound services if the student is to be confined for a minimum of four weeks to a hospital or homebound for medical reasons specifically documented by a physician licensed to practice in the United States. The weeks of confinement need not be consecutive. A parent request for such services shall be made through the Executive Director or designee in accordance with the SAAH and administrative procedures.

The Executive Director or designee shall convene a placement committee composed of at least a campus administrator, a teacher of the student, and the student’s parent or guardian to consider the necessity of providing general education homebound instruction to the student. If the committee determines that such instruction is appropriate, the committee shall determine the type and amount of instruction to be provided and the length of the transition period when the student is able to return to the regular educational setting, based on current medical information.

19 TAC 89.63(c)(2).

SEC. 2. SPECIAL EDUCATION STUDENTS

Consistent with state rule and the SAAH, a student receiving special education services may be eligible for special education homebound services if the student is to be confined for a minimum of four weeks to hospital or homebound setting for medical reasons specifically documented by a physician licensed to practice in the United States. If a student is chronically ill, the student’s admission, review, and dismissal committee shall determine whether the weeks of confinement need be consecutive.

If the ARD committee determines that homebound instruction is appropriate, the committee shall determine the type and amount of instruction to be provided in accordance with law and, if applicable, the length of the transition period based on current medical information.

SEC. 3. DOCUMENTATION OF SERVICES

Moody Early Childhood Center shall maintain full documentation regarding students receiving homebound services in accordance with administrative procedures, the SAAH, and the student’s individualized education program, as applicable.

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SEC. 1. TEXAS VIRTUAL SCHOOL NETWORK

The Texas Virtual School Network (“TxVSN”) is a state-led initiative for online learning authorized by Education Code Chapter 30A. The TxVSN is a partnership network administered by the Texas Education Agency (“TEA”) in coordination with regional education service centers (ESCs), Texas public school districts and charter schools, institutions of higher education, and other eligible entities.

19 TAC 70.1001(4).

SEC. 2. PROHIBITION ON REQUIRED ENROLLMENT

Moody Early Childhood Center shall not require a student to enroll in an electronic course.

Education Code 30A.107(d).

SEC. 3. STUDENT ELIGIBILITY FOR TxVSN COURSES

A student is eligible to enroll in a course provided through the TxVSN only if the student:

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

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

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

a) Exception for Military Dependents

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

1. Is a dependent of a member of the United States military;
2. Was previously enrolled in high school in Texas; and

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3. No longer resides in the State of Texas due to a military deployment or transfer.

Education Code 30A.002; 19 TAC 70.1013.

b) Enrolled Students

A student who is enrolled in Moody Early Childhood Center as a full-time student may take one or more electronic courses through the TxVSN.

Education Code 30A.107(b).

c) Unenrolled Students

A student who resides in Texas but is not enrolled in Moody Early Childhood Center as a full-time student may, subject to Education Code 30A.155, enroll in electronic courses through the TxVSN. The student:

1. May not in any semester enroll in more than two electronic courses offered through the TxVSN;
2. Is not considered to be a public school student;
3. Must obtain access to a course provided through the TxVSN through the school district or open-enrollment charter school attendance zone in which the student resides;
4. Is not entitled to enroll in a course offered by a school district or open-enrollment charter school other than an electronic course provided through the TxVSN; and
5. Is not entitled to any right, privilege, activities, or services available to a student enrolled in a public school, other than the right to receive the appropriate unit of credit for completing an electronic course.

Education Code 30A.107(c).

d) Compulsory Attendance

Students are not required to be in physical attendance while participating in a TxVSN course. Students are considered to have met attendance requirements for a course upon successful completion of a TxVSN course. A student who has successfully completed the grade level or course is eligible to receive any weighted funding for which the student is eligible. Moody Early Childhood Center shall maintain documentation to support a student's successful completion to support verification of compulsory attendance.

19 TAC 70.1001(9), .1017.

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SEC. 4. STUDENT PARTICIPATION IN THE TxVSN

The Executive Director or designee shall establish procedures for students to enroll in courses provided by the TxVSN.

Enrollment in courses through the TxVSN shall not be subject to limitations Moody Early Childhood Center may impose for other distance learning courses.

SEC. 5. NOTICE

At the time and in the manner that Moody Early Childhood Center informs students and parents about courses that are offered in Moody Early Childhood Center’s traditional classroom setting, Moody Early Childhood Center shall notify parents and students of the option to enroll in an electronic course offered through the TxVSN.

Education Code 26.0031(a).

SEC. 6. REQUESTS TO ENROLL

Except as provided below, Moody Early Childhood Center may not deny the request of a parent of a full-time student to enroll the student in an electronic course offered through the TxVSN.

Moody Early Childhood Center may deny a request to enroll a student in an electronic course if:

1. A student attempts to enroll in a course load that is inconsistent with the student’s high school graduation plan or requirements for college admission or earning an industry certification;
2. The student requests permission to enroll in an electronic course at a time that is not consistent with the enrollment period established by the course provider; or
3. Moody Early Childhood Center offers a substantially similar course.

The course provider shall make all reasonable efforts to accommodate the enrollment of a student in the course under special circumstances.

If a parent of a student requests permission to enroll the student in a TxVSN course, Moody Early Childhood Center has discretion to select a course provider approved by TEA for the course in which the student will enroll based on factors including the informed choice report required by Education Code 30A.108(b).

Education Code 26.0031.

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a) Appeals

A parent may appeal to the Commissioner of Education (the “Commissioner”) Moody Early Childhood Center’s decision to deny a request to enroll a student in an electronic course offered through the TxVSN. The Commissioner’s decision is final and may not be appealed.

Education Code 26.0031; 19 TAC 70.1008, .1035.

b) Students with Disabilities

The determination of whether or not an electronic course will meet the needs of a student with a disability shall be made by the student’s admission, review, and dismissal (“ARD”) committee in a manner consistent with state and federal law, including the Individuals with Disabilities Education Act and Section 504, Rehabilitation Act of 1973.

Education Code 30A.007(b).

SEC. 7. STUDENT ASSESSMENT

All students enrolled in the TxVSN are required to take the statewide assessments as required in Education Code 39.023. The administration of the assessment instrument to the student enrolled in the electronic course must be supervised by a proctor.

Moody Early Childhood Center shall report to the Commissioner through the Public Education Information Management System (“PEIMS”) the results of assessment instruments administered to students enrolled in an electronic course offered through the TxVSN separately from the results of assessment instruments administered to other students.

Education Code 30A.110; 19 TAC 70.1023.

SEC. 8. FEES

Moody Early Childhood Center may charge a fee for enrollment in an electronic course provided through the TxVSN to a student who resides in Texas and:

1. Is enrolled in Moody Early Childhood Center as a full-time student with a course load greater than that normally taken by students in the equivalent grade level in other public schools; or
2. Elects to enroll in a TxVSN course for which Moody Early Childhood Center declines to pay the cost as authorized by Education Code 26.0031(c-1).

Moody Early Childhood Center may charge a fee for enrollment in a TxVSN course during the summer.

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Moody Early Childhood Center shall charge a fee for enrollment in an electronic course provided through the TxVSN to a student who resides in Texas and is not enrolled in a school district or open-enrollment charter school as a full-time student.

A TxVSN course cost may not exceed the lesser of the cost of providing the course or \$400.

If Moody Early Childhood Center is not the provider school, Moody Early Childhood Center may charge a student enrolled in Moody Early Childhood Center a nominal fee, not to exceed the amount specified by the Commissioner, if the student enrolls in an electronic course provided through the TxVSN that exceeds the course load normally taken by students in the equivalent grade level.

Education Code 30A.155.

Moody Early Childhood Center may decline to pay the course costs for a student who chooses to enroll in more than three year-long electronic courses, or the equivalent, during any school year. This does not limit the ability of the student to enroll in additional electronic courses offered through the TxVSN at the student's expense.

Moody Early Childhood Center, if it is not the course provider, may charge a student enrolled in Moody Early Childhood Center a nominal fee, not to exceed \$50, if the student enrolls in a TxVSN course that exceeds the course load normally taken by students in the equivalent grade level.

Education Code 30A.155(a)–(c-1); 19 TAC 70.1025.

SEC. 9. PROVISION OF COMPUTER EQUIPMENT AND INTERNET SERVICE

This policy does not:

1. Require Moody Early Childhood Center to provide a student with home computer equipment or Internet access for a course provided through the TxVSN; or
2. Prohibit Moody Early Childhood Center from providing a student with home computer equipment or Internet access for a course provided through the TxVSN.

Education Code 30A.003.

SEC. 10. APPLICABILITY

This policy does not affect the provision of a course to a student while the student is located on the physical premises of Moody Early Childhood Center, unless Moody Early Childhood Center chooses to participate in providing an electronic course or an electronic diagnostic assessment

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under Education Code Chapter 30A to a student who is located on the physical premises of Moody Early Childhood Center.

This policy does not apply to a virtual course provided by Moody Early Childhood Center only to students enrolled in Moody Early Childhood Center if the course is not provided as part of the TxVSN.

Education Code 30A.004.

SEC. 11. MOODY EARLY CHILDHOOD CENTER AS PROVIDER

Moody Early Childhood Center is eligible to act as a course provider only if Moody Early Childhood Center is rated acceptable under Education Code 39.054. Additionally, Moody Early Childhood Center may serve as a course provider only:

1. To a student within its service area; or
2. To another student in the state:
 - a. Through an agreement with the school district in which the student resides; or
 - b. If the student receives educational services under the supervision of a juvenile probation department, the Texas Youth Commission, or the Texas Department of Criminal Justice, through an agreement with the applicable agency.

Education Code 30A.101(a).

SEC. 12. CONTRACTS WITH VIRTUAL SCHOOL SERVICE PROVIDERS

Each contract between Moody Early Childhood Center and an administering authority (as that term is defined by Education Code 30A.001(1)) must:

1. Provide that the administering authority may cancel the contract without penalty if legislative authorization for Moody Early Childhood Center through the TxVSN is revoked; and
2. Be submitted to the Commissioner.

A contract submitted under this provision is public information for purposes of Chapter 552, Government Code.

Education Code 30A.056.

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CONTRACTS WITH OUTSIDE AGENCIES**

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SEC. 1. STUDENTS WITH DISABILITIES

Moody Early Childhood Center may contract with a public or private facility, institution, or agency inside or outside of Texas for the provision of services to students with disabilities.

Education Code 29.008(a).

SEC. 2. PREKINDERGARTEN LICENSING STANDARDS

If Moody Early Childhood Center contracts with a private entity to operate a prekindergarten program, the program shall comply at a minimum with the applicable child-care licensing standards adopted by the Texas Department of Family and Protective Services under Human Resources Code 42.042.

Education Code 29.1532(b).

SEC. 1. STUDENT TESTING REQUIREMENTS

All Moody Early Childhood Center students receiving instruction in the essential knowledge and skills shall take the appropriate criterion-referenced assessments, as required by Education Code, Chapter 39, Subchapter B.

19 TAC 101.5(a).

Unless exempted by applicable law, a student may not receive a high school diploma until the student has performed satisfactorily on applicable end-of-course (“EOC”) assessment instruments.

Education Code 39.025(a); 19 TAC 101.4001.

SEC. 2. ENGLISH LEARNER STUDENTS

In grades 3–12, English learner¹ students shall participate in the state assessment in accordance with the Commissioner of Education’s (“Commissioner”) rules at 19 TAC Chapter 101, Subchapter AA.

Education Code 39.023(l), (m).

SEC. 3. SPECIAL EDUCATION

The student’s admission, review and dismissal (“ARD”) committee shall determine whether any allowable modification is necessary in administering to the student a required EOC assessment instrument and whether the student is required to achieve satisfactory performance on an EOC assessment instrument to receive a high school diploma.

Education Code 39.025(a-4).

SEC. 4. MILITARY DEPENDENTS

If a student is a military dependent, Moody Early Childhood Center shall accept:

1. Exit or EOC exams required for graduation from the sending state;
2. National norm-referenced achievement tests; or
3. Alternative testing, in lieu of testing requirements for graduation in the receiving state.

¹ In this policy, the term “English learner” is synonymous with “emergent bilingual” student, as that term is used in Subchapter B, Chapter 29, Education Code.

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STATE ASSESSMENTS**

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In the event the above alternatives cannot be accommodated for a military dependent transferring in his or her senior year, then the provisions of Education Code 162.002 art. VII, Section C shall apply.

a) Substitute Passing Standard

A substitute passing standard adopted by the Commissioner may be applied only for a qualified military dependent who enrolls in a Texas public school in this state for the first time after completing the ninth grade or who reenrolls in a Texas public school at or above the tenth grade level after an absence of at least two years from Texas public schools. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student’s high school enrollment, regardless of any subsequent revision of the standard.

Education Code 162.002 art. VII, §§ B–C.

SEC. 5. ADMINISTRATION OF ASSESSMENTS

Moody Early Childhood Center shall follow the test administration procedures established by the Texas Education Agency (“TEA”) in the applicable test administration materials. The Executive Director shall be responsible for administering tests.

19 TAC 101.25, 101.27.

Beginning no later than the 2022-2023 school year, each assessment instrument required under Education Code 39.023(a), (c), or (l) must be administered electronically, unless otherwise provided by commissioner rule.

Education Code 39.0234.

a) Assessment Schedule

The Commissioner shall specify the schedule for testing and field testing that is in compliance with Education Code 39.023(c-3) and supports reliable and valid assessments. Participation in University Interscholastic League (UIL) area, regional, or state competitions is prohibited on any days on which testing is scheduled between Monday and Thursday of the school week in which the primary administration of assessment instruments occurs. The Commissioner may provide alternate dates for the administration of tests required for a high school diploma to students who are migratory children and who are out of the state.

19 TAC 101.25.

b) Alternate Test Dates

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Moody Early Childhood Center or a campus may request from the Commissioner an alternate test date. Alternate test dates will only be allowed if Moody Early Childhood Center or campus is closed on the day on which testing is scheduled or if there is an exceptional circumstance, defined below, that may affect Moody Early Childhood Center’s or campus’ ability to administer an assessment or the students’ performance on an assessment. “Exceptional circumstances” include:

1. Inclement weather or natural disasters that would cause Moody Early Childhood Center or campus to be closed or that would cause a small percentage of students to be in attendance on the day testing is scheduled;
2. Health epidemics that result in a large number of students being absent on the day of testing;
3. Death of a student or school official that may impact student performance; and
4. Sudden emergencies that occur on the day of testing or shortly before testing that may inhibit students from completing the assessments, such as a fire on campus, a bomb threat, an extended power outage, or a water main break.

If an alternate test date for primary test administration is approved, the Commissioner may prohibit Moody Early Childhood Center or campus from participating in UIL competition on the new test date if that is determined to be in the best interest of Moody Early Childhood Center, campus, and students.

19 TAC 101.5003.

SEC. 6. NOTICE TO STUDENTS AND PARENTS

The Executive Director shall be responsible for providing written notice to each student and the student’s parent or guardian of the testing requirements for graduation and the dates, times, and locations of testing. Notice of testing requirements shall be provided no later than the beginning of the student’s seventh-grade year. The Executive Director shall also provide such notice for students in grades 7–12 who are new to Moody Early Childhood Center. Notice of the dates, times, and locations of testing shall be provided to each student who will take the tests and to out-of-school individuals.

19 TAC 101.3012(a).

SEC. 7. ASSESSMENTS IN GRADES 3–8

Unless otherwise excepted or exempted by law, all students shall be assessed in:

1. Mathematics, annually in grades 3–8;
2. Reading, annually in grades 3–8;
3. Writing, including spelling and grammar, in grades 4 and 7;

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4. Social studies in grade 8;
5. Science in grades 5 and 8; and
6. Any other subject and grade required by federal law.

Education Code 39.023(a).

a) Exception

Except as required for purposes of federal accountability, a student shall not be administered a grade-level assessment if the student:

1. Is enrolled in a course or subject intended for students above the student's enrolled grade level and will be administered a grade-level assessment instrument developed under the list above that aligns with the curriculum for that course or subject within the same content area; or
2. Is enrolled in a course for high school credit in a subject intended for students above the student's enrolled grade level and will be administered an EOC assessment instrument that aligns with the curriculum for that course or subject within the same content area.

A student is only eligible to take an assessment instrument intended for use above the student's enrolled grade if the student is receiving instruction in the entire curriculum for that subject.

A student in grade 5 or 8 described above may not be denied promotion on the basis of failure to perform satisfactorily on an assessment instrument above the student's grade level.

Education Code 28.0211(p), 39.023(a-2); 19 TAC 101.3011.

b) Kindergarten Assessment

A kindergarten student may not be administered an assessment instrument under Education Code 39.023 except to determine whether the student is entitled to the benefit of the Foundation School Program.

Education Code 39.023(a-16).

c) Prekindergarten Assessment

A prekindergarten student's performance on an assessment instrument may not be considered for any purpose related to Education Code Chapters 39 and 39A.

Education Code 39.027.

d) Assessment Accommodations

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Assessment accommodations are permitted for any student unless they would make a particular test invalid. Decisions regarding accommodations shall take into consideration the needs of the student and the accommodations the student routinely receives in classroom instruction. Permissible accommodations shall be described in the appropriate test administration materials.

The committee established to determine the placement of students with dyslexia or related disorders shall determine whether any allowable modification is necessary in administering an assessment to such a student. For a student receiving special education services, the ARD committee shall determine the allowable accommodations and shall document them in the student's Individualized Education Program ("IEP").

19 TAC 101.3013; Education Code 39.023(a)-(c), (n); 34 CFR 300.320(a)(6).

SEC. 8. END-OF-COURSE ASSESSMENTS

Students in grade 9 and above who are enrolled in a course for which an EOC assessment exists as required by Education Code 39.023(c) shall take the appropriate assessment.

19 TAC 101.3021(a).

a) Students Enrolled Below High School Level

A student in grade 8 or lower who takes a high school course for credit is required to take the applicable EOC assessment. The EOC assessment result shall be applied toward the student's assessment graduation requirements, as specified in 19 TAC 101.3022.

19 TAC 101.3021(d).

b) Assessment Requirements for Graduation

A student must meet satisfactory performance on an EOC assessment listed in Education Code 39.023(c) only for a course in which the student is enrolled and for which an EOC assessment instrument is administered in order to be eligible to receive a Texas diploma.

i. Exceptions: English I or English II

A student who was administered separate reading and writing EOC assessments under Education Code 39.023(c), for the English I or English II course has met that course's assessment graduation requirement if the student has:

1. Achieved satisfactory performance on either the reading or writing EOC assessment for that course;

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2. Met at least the minimum score on the other EOC assessment for that course; and
3. Achieved an overall scale score of 3750 or greater when the scale scores for reading and writing are combined for that course.

Exceptions related to English I also apply to English learners who meet the criteria in 19 TAC 101.1007.

ii. Exceptions: Credits Earned Prior to Enrollment

If a student earned high school credit for a course with an EOC assessment prior to enrollment in a Texas public school and the credit has been accepted by a Texas public school, or a student completed a course for Texas high school credit in a course with an EOC assessment prior to the 2011–2012 spring administration, the student is not required to take the corresponding EOC assessment.

19 TAC 101.3021(e), .3022.

c) Substitute Assessments

A student may use certain assessments as substitute assessments in place of an EOC assessment, to meet the student’s assessment graduation requirements in accordance with the Commissioner’s chart at 19 TAC 101.4002(b). An approved substitute assessment may be used in place of only one specific EOC assessment.

A student is eligible to use a substitute assessment if the student meets all eligibility criteria listed in 19 TAC 101.4002(c)-(d).

A student electing to substitute an assessment for graduation purposes must still take the required EOC assessment if the student does not meet the eligibility requirements above.

A student who fails to perform satisfactorily on the PSAT or the ACT-PLAN as indicated in the chart at 19 TAC 101.4002(b) must take the appropriate EOC assessment to meet the assessment graduation requirements for that subject.

i. Verification of Results

An eligible student is responsible for providing Moody Early Childhood Center an official copy of the student’s scores from the substitute assessment. Upon receipt of official results of an approved substitute assessment, Moody Early Childhood Center must:

1. Verify the student’s score on the substitute assessment; and
2. Determine whether the student met the performance standard required to qualify for a public high school diploma in Texas as established by the Commissioner.

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19 TAC 101.4002, .4005.

d) Satisfactory Performance

A student is required to achieve a scale score that indicates satisfactory performance, as determined by the Commissioner, on each EOC assessment instrument administered to the student.

Education Code 39.025(a).

e) Individual Graduation Committee

A student in grade 11 or 12 who has failed to comply with the EOC assessment instrument performance requirements under Education Code 39.025 for not more than two courses may qualify to graduate on the basis of a review by an individual graduation committee (“IGC”).

Education Code 28.0258, 39.025(a-2).

f) Special Education

A student receiving special education services is not subject to the IGC requirements in Education Code 28.0258. As provided in 19 TAC 89.1070 (Graduation Requirements) and 19 TAC 101.3023 (Participation and Graduation Assessment Requirements for Students Receiving Special Education Services), a student's ARD committee determines whether a student is required to achieve satisfactory performance on an EOC assessment to graduate.

A student dismissed from a special education program who achieved satisfactory performance on an alternate EOC assessment while enrolled in a special education program is not required to take and achieve satisfactory performance on the general EOC assessment to graduate. A student who took an EOC assessment while enrolled in a special education program is not required to retake and achieve satisfactory performance on the EOC assessment if the student's ARD committee determined that the student was not required to achieve satisfactory performance on the EOC assessment to graduate. A student dismissed from a special education program must achieve satisfactory performance on any remaining EOC assessments that the student is required to take. If the student fails to achieve satisfactory performance on no more than two of the remaining EOC assessments, the student is eligible for IGC review under Education Code 28.0258 and is subject to the IGC provisions above.

19 TAC 101.3022(f).

A student receiving special education services who successfully completes the requirements of his or her IEP, including performance on a state assessment required for graduation, shall receive

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a Texas high school diploma. A student’s ARD committee shall determine if the student will be required to meet satisfactory performance on an assessment for purposes of graduation.

All students in grades 9–12 with significant cognitive disabilities who are assessed with an alternate assessment as specified in the student’s IEP will be assessed using alternate versions of EOC assessments as listed in 19 TAC 101.3011(b)(2).

19 TAC 101.3023(a)-(b).

g) Credit by Examination

An EOC assessment administered under Education Code 39.023(c) cannot be used for purposes of credit by examination under 19 TAC 74.24.

19 TAC 101.3021(c).

h) Retakes

Each time an EOC assessment instrument is administered, a student who failed to achieve a score requirement may retake the assessment instrument. A student is not required to retake a course as a condition of retaking an EOC assessment instrument. If a student failed a course but achieved satisfactory performance on the applicable EOC assessment, that student is not required to retake the assessment if the student is required to retake the course.

Education Code 39.025(b); 19 TAC 101.3021(f), .3022(d).

SEC. 9. REPORTING RESULTS

a) Public Reports

Overall student performance data, aggregated by ethnicity, sex, grade level, subject area, campus, and district, shall be made available to the public, with appropriate interpretations, at regularly scheduled meetings of the Board, after receipt from TEA. The information shall not contain the names of individual students or teachers.

Education Code 39.030(b).

b) Reports to the Board

The Executive Director shall accurately report all test results, with appropriate interpretations, to the Board according to the schedule in the applicable test administration materials.

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c) Reports to Students, Parents, and Teachers

Moody Early Childhood Center shall notify each of its students, his or her parent or guardian, and his or her teacher for that subject of test results, observing confidentiality requirements stated in Section 12-c below. All test results shall be included in each student's academic achievement record and shall be furnished for each student transferring to another district or school. Upon receipt of the assessment results from the test contractor, Moody Early Childhood Center shall disclose a student's assessment results to a student's teacher in the same subject area as the assessment for that school year.

19 TAC 101.3014.

The TEA has adopted a series of questions to be included in an EOC assessment instrument administered under Education Code 39.023(c) to be used for purposes of identifying students who are likely to succeed in an advanced high school course. Moody Early Childhood Center shall notify a student who performs at a high level on the questions and the student's parent or guardian of the student's performance and potential to succeed in an advanced high school course. Moody Early Childhood Center may not require a student to perform at a particular level on the questions to be eligible to enroll in an advanced high school course.

Education Code 39.0233(b).

d) Parent's Right-to-Know Under ESSA

As a condition of receiving assistance under Title I, Part A of the Elementary and Secondary Education Act (ESEA) (20 U.S.C. 6301 et seq.), Moody Early Childhood Center shall provide to each individual parent of a child who is a student in such school, with respect to such student information on the level of achievement and academic growth of the student, if applicable and available, on each of the state academic assessments required under Part A.

20 U.S.C. 6312(e)(1)(B)(i).

SEC. 10. OUT-OF-STATE TRANSFERS

Moody Early Childhood Center shall accurately report to TEA whether that student transferred into Moody Early Childhood Center from out of state during the current school year. Procedures for the reporting of out-of-state-transfer students to TEA shall be established in the applicable test administration materials. Moody Early Childhood Center shall follow procedures specified in those test administration materials.

The assessment results of the out-of-state transfer students shall be reported separately to Moody Early Childhood Center from the results of its other students in addition to the current reporting of assessment results for all students and other student subsets.

19 TAC 101.3014.

SEC. 11. ACCELERATED INSTRUCTION

Moody Early Childhood Center shall provide accelerated instruction to any student who fails to preform satisfactorily on a state assessment instrument in the manner required by applicable law. *See also* PG-2.20.

SEC. 12. ASSESSMENT SECURITY AND CONFIDENTIALITY

All assessment instruments included in the student assessment program are considered secure, and the contents of these tests, including student information used or obtained in their administration, are confidential.

The Executive Director and campus campus administrators in all Moody Early Childhood Center schools shall:

1. Implement and ensure compliance with state test administration procedures and training activities;
2. Notify TEA as soon as Moody Early Childhood Center becomes aware of any alleged or suspected violation of the security or confidential integrity of an assessment;
3. Report all confirmed testing violations to TEA within 10 working days of Moody Early Childhood Center becoming aware of the violation in accordance with the reporting process stipulated in the test administration materials;
4. Ensure that the only individuals with access to secure assessment materials are Moody Early Childhood Center employees who have:
 - a. Met the requirements to participate in the student assessment program;
 - b. Received annual training in test security and test administration procedures; and
 - c. Signed an oath affirming they understand their obligation to maintain and preserve the security and confidentiality of all state assessments and student information, acknowledge their responsibility to report any suspected testing violation, and are aware of the range of penalties that may result from a violation of test security and confidentiality or a departure from test administration procedures; and
5. Ensure the security of assessment materials by:
 - a. Verifying that all boxes of testing materials have been accounted for and match Moody Early Childhood Center shipping notices upon receipt from the state’s testing contractor(s);
 - b. Requiring campuses to immediately inventory all testing materials received and to notify the Moody Early Childhood Center testing coordinator of any shortages or discrepancies;
 - c. Immediately notifying the state’s testing contractor(s) of any discrepancies between the materials received and Moody Early Childhood Center’s shipping notices;
 - d. Placing test booklets and answer documents in secure, limited-access, locked storage when not in use;

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- e. Collecting and destroying any scratch paper, graph paper, or reference materials that students have written on, as well as any recordings, after the completion of a test administration;
- f. Requiring that all secure materials assigned to individual campuses have been accounted for and packaged in accordance with the procedures for returning materials as detailed in the test administration materials;
- g. Requiring that all test item image cards and photocopies or reproductions of secure test materials have been collected and returned to the Moody Early Childhood Center testing coordinator for return to the testing contractor(s); and
- h. Maintaining inventory and shipping records for five years.

19 TAC 101.3031(a)(1)-(a)(2).

a) Security and Confidentiality Violations

Violations of the security and confidential integrity of an assessment include:

- 1. Directly or indirectly assisting students with responses to test questions;
- 2. Tampering with student responses;
- 3. Falsifying holistic ratings or student responses;
- 4. Viewing secure test content before, during, or after an administration unless specifically authorized by TEA or by the procedures outlined in the test administration materials;
- 5. Discussing or disclosing secure test content or student responses;
- 6. Scoring students' tests, either formally or informally;
- 7. Duplicating, recording, or electronically capturing confidential test content unless specifically authorized by TEA or by the procedures outlined in the test administration materials;
- 8. Responding to secure test questions;
- 9. Fraudulently exempting or preventing a student from participating in the administration of a required state assessment;
- 10. Receiving or providing unallowable assistance during calibration activities (e.g., taking notes, providing answer sheets, or sharing answers);
- 11. Encouraging or assisting an individual to engage in the conduct described in subparagraphs (1)-(10) above or in any other serious violation of security and confidentiality;
- 12. Failing to report to an appropriate authority that an individual has engaged or is suspected of engaging in conduct described in subparagraphs (1)-(11) above or in any other serious violation of security and confidentiality under this section;
- 13. Failing to implement sufficient procedures to prevent student cheating; and
- 14. Failing to implement sufficient procedures to prevent alteration of test documents by anyone other than the student.

i. Consequences / Penalties

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If Moody Early Childhood Center determines that a student has cheated or attempted to cheat on a state assessment either by providing or receiving direct assistance, Moody Early Childhood Center shall invalidate the student's test results. Any violation of test security or confidential integrity may result in TEA:

1. Invalidating student test results;
2. Referring certified educators to the State Board for Education Certification for sanctions; and
3. Lowering Moody Early Childhood Center's accreditation status Moody Early Childhood Center's or campus's accountability ratings, or appointment of a monitor, conservator, or a management team in accordance with Education Code Chapter 39A.

ii. Test Administration Procedures and Training Activities

Test administration procedures shall be delineated in the test administration materials provided to Moody Early Childhood Center annually. Moody Early Childhood Center must comply with all of the applicable requirements specified in the test administration materials.

Moody Early Childhood Center shall ensure that test coordinators and administrators receive training to ensure that testing personnel have the necessary skills and knowledge required to administer assessment instruments in a valid, standardized, and secure manner.

iii. Record Retention

Moody Early Childhood Center shall maintain records related to the security of assessment instruments for five years.

19 TAC 101.3031(a-3)-(d).

iv. Development of Procedures

The Executive Director and each campus administrator must develop procedures to ensure the security and confidentiality of state assessments, and will be responsible for notifying TEA in writing of conduct that violates the security or confidentiality of an assessment.

b) Minimize Disruptions

In implementing the Commissioner's procedures for the administration of assessment instruments adopted or developed under Education Code 39.023, including procedures designed to ensure the security of the assessment, Moody Early Childhood Center shall minimize disruptions to school operations and the classroom environment.

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Education Code 39.0301(a-1).

c) Assessment Confidentiality Results

Individual student performance results are confidential and may be released only in accordance with the Family Educational Rights and Privacy Act of 1974 (FERPA).

Education Code 39.030(b).

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SEC. 1. SELECTION OF READING INSTRUMENTS

The Commissioner of Education (“Commissioner”) shall adopt a list of reading instruments that Moody Early Childhood Center may use to diagnose student reading development and comprehension. Moody Early Childhood Center may adopt a list of reading instruments for use in addition to the reading instruments on the Commissioner’s list. Each reading instrument adopted must be based on scientific research concerning reading skills development and reading comprehension. A list of adopted reading instruments must provide for diagnosing the reading development and comprehension of students participating in a bilingual education or special language program.

Education Code 28.006(b).

SEC. 2. STUDENT READING ASSESSMENTS

a) Kindergarten through Second Grade

Moody Early Childhood Center shall administer, at the kindergarten and first and second grade levels, a reading instrument on the list adopted by the Commissioner or by Moody Early Childhood Center. The reading instrument shall be administered in accordance with the Commissioner’s recommendations under Education Code 28.006(a)(1).

b) Seventh Grade

During the first six weeks of the school year, Moody Early Childhood Center shall administer the reading instrument specified by the Commissioner to each student in seventh grade whose performance on the sixth-grade state reading assessment in reading did not meet the passing standard. The admission, review and dismissal (“ARD”) committee or the Section 504 committee for each student who was administered a modified state assessment in reading may determine if the diagnostic assessment is appropriate for use with that student.

Education Code 28.006(c-1); 19 TAC 101.6001(a).

A seventh-grade student who does not have a score for the statewide reading assessment in grade six may be given an equivalent comprehension assessment. If that student does not meet the passing standard, then the student must be administered the diagnostic reading assessment selected by the Commissioner.

19 TAC 101.6001(b).

Moody Early Childhood Center must use the Texas Middle School Fluency Assessment and/or an alternate diagnostic reading instrument. Moody Early Childhood Center may submit an

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alternate diagnostic reading instrument to the Texas Education Agency (“TEA”) for approval. An alternate diagnostic reading instrument must:

1. Be based on published scientific research in reading;
2. Be age and grade-level appropriate, valid, and reliable;
3. Identify specific skill difficulties in word analysis, fluency, and comprehension; and
4. Assist the teacher in making individualized instructional decisions based on the assessment results.

19 TAC 101.6001(c), (d).

SEC. 3. EXECUTIVE DIRECTOR REPORTS

The Executive Director shall:

1. Report the results of the reading instruments to the Commissioner and the Board;
2. Report, in writing, to a student’s parent or guardian the student’s results on the reading instrument not later than the 60th calendar day after the date on which a reading instrument was administered; and
3. Report each student’s raw score on the reading instrument to the TEA using the school readiness certification system.

Education Code 28.006(d).

SEC. 4. PARENTAL NOTIFICATION

Moody Early Childhood Center shall notify the parent or guardian of each student in kindergarten or first or second grade who is determined, on the basis of reading instrument results, to be at risk for dyslexia or other reading difficulties. Moody Early Childhood Center shall make a good faith effort to ensure that this notice is provided either in person or by regular mail, and that the notice is clear and easy to understand and is written in English and in the parent or guardian’s native language.

Education Code 28.006(g)-(h).

SEC. 5. ACCELERATED READING INSTRUCTION PROGRAM

Moody Early Childhood Center shall implement an accelerated reading instruction program that provides reading instruction addressing reading deficiencies to students identified as at risk for dyslexia or other reading difficulties, and shall determine the form, content, and timing of that program. The ARD committee of a student who participates in Moody Early Childhood Center’s special education program and who does not perform satisfactorily on a reading instrument shall determine the manner in which the student will participate in an accelerated reading instruction program.

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Education Code 28.006(g).

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SEC. 1. UNSATISFACTORY PERFORMANCE ON ASSESSMENT INSTRUMENTS

a) Accelerated Instruction: Grades 3–8

Each time a student fails to perform satisfactorily on an assessment instrument in the third, fourth, fifth, sixth, seventh, or eighth grade, Moody Early Childhood Center shall provide to the student accelerated instruction in the applicable subject area during the subsequent summer or school year and either:

Education Code 28.0211(a-1), (a-2), (n-1)

b) Accelerated Instruction: High School Grades

Each time a high school student fails to perform satisfactorily on an End-of-Course (“EOC”) assessment instrument, Moody Early Childhood Center shall provide to the student accelerated instruction in the subject assessed by the assessment instrument.

Education Code 28.0217, 39.025(b-1).

SEC. 2. ACCELERATED INSTRUCTION REQUIREMENTS

Accelerated instruction for students who fail to perform satisfactorily on State Assessments (STARR exams for students in grades 3-8, and EOC exams for students in grades 9-12):

1. May require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations; and
2. Must comply with the requirements for accelerated instruction required under Education Code 28.0211.

Education Code 28.0217(b).

Accelerated instruction for students who fail to perform satisfactorily on State Assessments (STARR exams for students in grades 3-8, and EOC exams for students in grades 9-12) shall be provided in the applicable subject area during the subsequent summer or school year and either;

1. Allow the student to be assigned a classroom teacher who is certified as a master, exemplary, or recognized teacher under Education Code 21.3521 for the subsequent school year in the applicable subject area; or
2. Provide the student supplemental instruction.

Education Code 28.0211(a-1).

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a) Supplemental Instruction

If Moody Early Childhood Center receives funding under Education Code 29.0881, the Coronavirus Response and Relief Supplemental Appropriations Act, or the American Rescue Plan Act of 2021, the supplemental instruction provided by Moody Early Childhood Center must:

1. Include targeted instruction in the essential knowledge and skills for the applicable grade levels and subject area;
2. Be provided in addition to instruction normally provided to students in the grade level in which the student is enrolled;
3. Be provided for no less than 30 total hours during the subsequent summer or school year and, unless the instruction is provided fully during summer, include instruction no less than once per week during the school year;
4. Be designed to assist the student in achieving satisfactory performance in the applicable grade level and subject area;
5. Include effective instructional materials designed for supplemental instruction;
6. Be provided to a student individually or in a group of no more than three students, unless the parent or guardian of each student in the group authorizes a larger group;
7. Be provided by a person with training in the applicable instructional materials for the supplemental instruction and under the oversight of Moody Early Childhood Center; and
8. To the extent possible, be provided by one person for the entirety of the student's supplemental instruction period.

Education Code 28.0211(a-4).

b) Student Transportation

Moody Early Childhood Center shall be responsible for providing transportation to students required to attend accelerated instruction programs if these programs occur outside of regular school hours.

Education Code 28.0211(j).

c) Limitations on Removing Students

In providing accelerated instruction, Moody Early Childhood Center may not remove a student, except under circumstances for which a student enrolled in the same grade level who is not receiving accelerated instruction would be removed, from:

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1. Instruction in the foundation curriculum and enrichment curriculum for the grade level in which the student is enrolled; or
2. Recess or other physical activity that is available to other students enrolled in the same grade level.

Education Code 28.0211(a-3).

d) Placement After Promotion

A student who fails to perform satisfactorily on an state assessment instrument and is promoted to the next grade level must be assigned in the subsequent school year in each subject in which the student failed to perform satisfactorily to a teacher who meets all state and federal qualifications to teach that subject and grade.

Education Code 28.0211(n).

SEC. 3. ACCELERATED LEARNING COMMITTEE

Moody Early Childhood Center shall establish an Accelerated Learning Committee (“ALC”) for each student who does not perform satisfactorily on:

1. The third grade mathematics or reading assessment instrument;
2. The fifth grade mathematics or reading assessment instrument; or
3. The eight grade mathematics or reading assessment instrument.

Education Code 28.0211(a).

Each committee shall be composed of the Executive Director or designee, the student’s parent or guardian, and the teacher of the subject of an assessment instrument on which the student failed to perform satisfactorily. Moody Early Childhood Center shall notify the parent or guardian of the time and place for convening the accelerated learning committee and the purpose of the committee.

Education Code 28.0211(c).

An ALC shall, not later than the start of the subsequent school year, develop an educational plan for the student that provides the necessary accelerated instruction to enable the student to perform at the appropriate grade level by the conclusion of the school year. The educational plan developed by an ALC must be documented in writing, and a copy must be provided to the student’s parent or guardian.

Education Code 28.0211(f), (f-1).

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If a student who fails to perform satisfactorily on an assessment instrument specified above fails in the subsequent school year to perform satisfactorily on an assessment instrument in the same subject, the Executive Director or designee¹ shall meet with the student’s ALC to:

1. Identify the reason the student did not perform satisfactorily; and
2. Determine, in order to ensure the student performs satisfactorily on the assessment instrument at the next administration of the assessment instrument, whether:
 - a. The educational plan developed for the student must be modified to provide the necessary accelerated instruction for that student; and
 - b. Any additional resources are required for the student.

Education Code 28.0211(f-4).

During the school year, the student shall be monitored to ensure that he or she is progressing in accordance with the educational plan developed by the ALC. Moody Early Childhood Center shall administer to the student the assessment instrument for the grade level in which the student is placed at the time Moody Early Childhood Center regularly administers the assessment instruments for that school year.

SEC. 4. PARENTAL INPUT ON ACCELERATED INSTRUCTION

a) Parent Appeal of Educational Plan

The Executive Director or designee shall develop a process to allow a parent to contest the content or implementation of an educational plan developed by a student’s accelerated learning committee. This process shall recognize the Board’s final authority to hear or decide parent and student grievances. The grievance process shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or “mini-trial” at any level. The Executive Director or designee shall ensure that the parent appeal process is made available to students and parents through the Student and Parent Handbook.

Education Code 28.0211 (f-3)

The Board shall retain final authority to hear or decide parent and student grievances. *19 TAC 100.1033(b)(14)(C)(i)*. The Board may conduct a closed meeting when hearing or deciding a parent or student grievance as allowed by applicable law.

Gov’t Code Ch. 551, Subch. D.

b) Parent Requests Concerning Classroom Assignments

¹ The Executive Director’s designee may be an employee of a regional education service center and may not be a person who served on the student’s ALC.

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The Executive Director or designee shall establish a process allowing for the parent or guardian of a student who fails to perform satisfactorily on an assessment instrument for math or reading in the third, fifth, or eighth grade, request for a particular classroom teacher in the applicable subject area for the subsequent school year, if more than one classroom teacher is available. This process shall be included in Moody Early Childhood Center’s Student and Parent Handbook.

Education Code 28.0211(a-5).

c) Parental Notification of Performance and Accelerated Instruction

In addition to providing the accelerated instruction, Moody Early Childhood Center shall notify the student’s parent or guardian of:

1. The student’s failure to perform satisfactorily on the assessment instrument;
2. The accelerated instruction program to which the student is assigned; and
3. The possibility that the student might be retained at the same grade level for the next school year.

Whenever Moody Early Childhood Center is required to notify a parent or guardian about the requirements related to promotion and accelerated instruction, Moody Early Childhood Center shall make a good-faith effort to ensure that the notice is provided either in person or by regular mail, is clear and easy to understand, and is written in English or in the parent or guardian’s native language.

Education Code 28.0211(d), (h).

SEC. 5. SPECIAL EDUCATION STUDENTS

The admission, review, and dismissal (“ARD”) committee of a student who participates in Moody Early Childhood Center’s special education program and who does not perform satisfactorily on an assessment instrument and/or administered under Education Code 39.023(a) or (b) must meet to determine the manner in which the student will participate in an accelerated instruction program.

Education Code 29.0211(i).

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SEC. 1. LANGUAGE PROFICIENCY ASSESSMENT COMMITTEE (LPAC)

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

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

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

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

SEC. 2. DEFINITIONS

“Recent unschooled immigrant” means an immigrant who initially enrolled in a school in the United States not more than 12 months before the date of the administration of an assessment and who, as a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum determined by the LPAC.

Education Code 39.027(g).

“Unschooled asylee or refugee” means a student who:

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

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

¹ In this policy, the term “English learner” is synonymous with “emergent bilingual” student, as that term is used in Subchapter B, Chapter 29, Education Code.

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“Inadequate schooling outside the United States” is defined as little or no formal schooling outside the United States such that the asylee or refugee lacks basic literacy in his or her primary language upon enrollment in school in the United States.

19 TAC 101.1005(d).

SEC. 3. ENGLISH LANGUAGE PROFICIENCY ASSESSMENTS

In kindergarten through grade 12, an English learner shall be administered state-identified English language proficiency assessments annually in listening, speaking, reading, and writing to fulfill state requirements under Education Code, Chapter 39, Subchapter B, and applicable federal requirements.

19 TAC 101.1003(a).

SEC. 4. LIMITATIONS ON EXEMPTIONS

a) First Year after Enrollment

An English learner may be administered an accommodated or alternative assessment instrument or may be granted an exemption from or a postponement of the administration of the state assessment for up to one year after initial enrollment in a school in the United States if the student has not demonstrated proficiency in English as determined by the assessment system developed to evaluate academic progress of an English learner.

Education Code 39.027(a)(1).

b) Subsequent Years

An English learner granted the initial exemption period above may be administered an accommodated or alternative assessment instrument or may be granted an exemption from or a postponement of the administration of the state assessment for up to:

1. An additional two years if the student is a recent unschooled immigrant or is in a grade for which no assessment instrument in the primary language of the student is available; or
2. An additional four years if the student’s initial enrollment in a school in the United States was as an unschooled asylee or refugee.

The LPAC must determine that the student lacks the academic language proficiency in English necessary for an assessment in English to measure the student’s academic progress in a valid, reliable manner.

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c) Minimum Days for Enrollment

Regardless of the date on which the student initially enrolled in a school in the United States, unless a student is enrolled in a school in the United States for a period of at least 60 consecutive days during a year, the student may not be considered to be enrolled in a school in the United States for that year for the purpose of determining a number of years under Education Code 39.027(a)(1), (2), or (3).

Education Code 39.027(a)(1)–(2), (a-1), (a-2), (g).

SEC. 5. TESTING IN GRADES 3–8

An English learner shall participate in the grades 3–8 assessments and, except as provided below, shall be administered the general form of the English-version state assessment.

a) Spanish-Version Assessment

A Spanish-speaking English learner in grades 3–5 may be administered the state’s Spanish-version assessment if an assessment in Spanish will provide the most appropriate measure of the student’s academic progress.

b) Linguistically Accommodated Assessments

An English learner in grade 3 or higher may be administered the linguistically accommodated English version of the state’s mathematics, science, or social studies assessment if:

1. A Spanish-version assessment does not exist or is not the most appropriate measure of the student’s academic progress;
2. The student has not yet demonstrated English language proficiency in reading as determined by the English language proficiency assessment under 19 TAC 101.1003; and
3. The student has been enrolled in U.S. schools for three school years or less or qualifies as an unschooled asylee or refugee enrolled in U.S. schools for five school years or less.

c) Exemption for Asylee or Refugee

An unschooled asylee or refugee who meets the criteria discussed above shall be granted an exemption from an administration of an assessment instrument under Education Code 39.023(a), (b), or (l). This exemption will only apply during the school year an unschooled asylee or refugee is first enrolled in a U.S. public school.

19 TAC 101.1005(b), (c).

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d) Refusal of Services

An English learner whose parent or guardian has declined bilingual education/ESL services is not eligible for special assessment, accommodation, or accountability provisions made available to English learners.

19 TAC 101.1005(f).

SEC. 6. END-OF-COURSE ASSESSMENTS

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

19 TAC 101.1005(b).

An English learner shall not be exempt from taking an end-of-course assessment for reasons associated with limited English proficiency or inadequate schooling outside the United States, except as provided below.

a) Exception

If an English learner enrolled in English I or English for Speakers of Other Languages I has not yet demonstrated English language proficiency in reading as determined by the English language proficiency assessments required above and has been enrolled in U.S. schools for three school years or less, or qualifies as an unschooled asylee or refugee enrolled in U.S. schools for five school years or less, then he or she shall not be required to retake the applicable English I assessment in which the student is enrolled each time it is administered if the student passes the course but fails to achieve the passing standard on the assessment.

19 TAC 101.1007(a), (b).

SEC. 7. NON-ENGLISH LEARNER STUDENTS

Moody Early Childhood Center may administer the assessment of academic skills in Spanish to a student who is not identified as an English learner but who participates in a bilingual program if the LPAC determines the assessment in Spanish to be the most appropriate measure of the student's academic progress.

19 TAC 101.1005(g).

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SEC. 8. SPECIAL EDUCATION

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

a) Selecting Assessments

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

19 TAC 101.1005(a).

b) English Language Proficiency Tests

In rare cases, the ARD committee in conjunction with the LPAC may determine that it is not appropriate for an English learner who receives special education services to participate in an English language proficiency assessment required above for reasons associated with the student's particular disability. The ARD committee shall document the decisions and justifications in the student's IEP, and the LPAC shall document the decisions and justifications in the student's permanent record file.

19 TAC 101.1003(b).

In the case of an English learner who receives special education services, the ARD committee in conjunction with the LPAC shall determine and document the need for allowable testing accommodations in accordance with administrative procedures established by TEA.

19 TAC 101.1003(c).

c) Alternative Assessment Instruments

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

19 TAC 101.1005(b).

An unschooled asylee or refugee who meets these criteria shall be granted an exemption from an administration of an assessment instrument under Education Code 39.023(a), (b), or (l). This exemption will only apply during the school year an unschooled asylee or refugee is first enrolled in a U.S. public school.

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19 TAC 101.1005(c).

d) Testing Accommodations

The LPAC in conjunction with the ARD committee shall determine and document any allowable testing accommodations for assessments in accordance with administrative procedures established by TEA.

19 TAC 101.1005(e).

SEC. 9. GRADE ADVANCEMENT REQUIREMENTS

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

19 TAC 101.2003(e).

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SEC. 1. NONDISCRIMINATION POLICY

No qualified student with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any service, program, or activity provided or offered by Moody Early Childhood Center.

42 U.S.C. 12132; 29 U.S.C. 794(a); 34 CFR 104.4(a).

SEC. 2. FREE APPROPRIATE PUBLIC EDUCATION

Eligible students with disabilities shall enjoy the right to a free appropriate public education (“FAPE”), which may include instruction in the regular classroom, instruction through special teaching, or instruction through approved contracts. Instruction shall be supplemented by the provision of related services when appropriate.

Education Code 29.003(a).

FAPE means special education and related services that:

- 1) Have been provided at public expense, under public supervision and direction, and without charge;
- 2) Meet standards set out by the Texas Education Agency (“TEA”);
- 3) Include an appropriate preschool, elementary school, or secondary school education; and
- 4) Are provided in conformity with the student’s individualized education program (“IEP”).

20 U.S.C. 1401(9); 34 CFR 300.13, 300.17, 300.36.

SEC. 3. LEAST RESTRICTIVE ENVIRONMENT

Moody Early Childhood Center and designated provider shall ensure that, to the maximum extent possible, children with disabilities shall be educated with children who are not disabled. Special classes, special schooling, or other removal of children with disabilities from the regular educational environment shall occur only when the nature or severity of the child’s disability is such that education in regular classes with the use of supplementary aids and services cannot be satisfactorily achieved.

20 U.S.C. 1412(a)(5); 34 CFR 300.114(a)(2).

SEC. 4. DISCIPLINE

All disciplinary actions regarding students with disabilities shall be determined in accordance with applicable federal regulations, Education Code Chapter 37, and 19 Administrative Code 89.1053.

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19 TAC 89.1050(k).

SEC. 5. INSTRUCTIONAL ARRANGEMENTS AND SETTINGS

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

1. Mainstream: services provided in the regular classroom in accordance with the student's IEP;
2. Homebound: services provided at home or hospital bedside;
3. Hospital class: services provided in a classroom, hospital facility, or residential care and treatment facility not operated by Moody Early Childhood Center;
4. Speech therapy: speech therapy services provided, whether in a regular education classroom or other setting;
5. Resource room/services: services provided in a setting other than the regular classroom for less than 50% of the regular school day;
6. Self-contained (mild, moderate, or severe) regular campus: services provided to a student who is in a self-contained program for 50% or more of the regular school day on a regular school campus;
7. Off home campus: services provided in an interdistrict program, through Moody Early Childhood Center personnel in a non-Moody Early Childhood Center facility, or at a Moody Early Childhood Center campus that provides only special education and related services.
8. Nonpublic day school: services provided through a contractual agreement with a nonpublic school;
9. Vocational adjustment class/program: services provided to a student who is placed on a job with regularly scheduled direct involvement by special education personnel in the implementation of the student's IEP;
10. Residential care and treatment facility (not Moody Early Childhood Center resident): services provided to students who reside in care and treatment facilities and whose parents do not reside within the boundaries of Moody Early Childhood Center;
11. State supported living center: services provided to a student who resides at a state supported living center when the services are provided at the state supported living center location; or
12. Other program options, including contracts with other districts and programs approved by TEA.

19 TAC 89.63(c), (f).

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SEC. 6. RELATED SERVICES

“Related services” means transportation, and such developmental, corrective, and other supportive services as may be required to assist a child with a disability to benefit from special education, including the early identification and assessment of disabling conditions in children.

The term includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to receive a FAPE as described in the child’s IEP, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that medical services shall be for diagnostic and evaluation purposes only.

The term does not include a medical device that is surgically implanted, the optimization of the device’s functioning, or the replacement of such device.

20 U.S.C. 1401(26); 34 CFR 300.34.

a) Transportation

Moody Early Childhood Center or designated provider shall provide special transportation with federal funds only when the admission, review and dismissal (ARD) committee determines that the condition of the student warrants the service in order for the student to receive the special education and related services (if any) set forth in the IEP.

19 TAC 89.1096(e).

b) Extended School-Year Services

Moody Early Childhood Center or designated provider shall ensure that extended school-year (ESY) services are available as necessary to provide a student with a disability with a FAPE. ESY services must be provided only if the ARD committee determines, on an individual basis, that the services are necessary for a FAPE. Moody Early Childhood Center may not limit ESY services to particular categories of disability or unilaterally limit the type, amount, or duration of ESY services.

34 CFR 300.106; 19 TAC 89.1065.

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SEC. 1. CHILD FIND

Moody Early Childhood Center or designated provider shall ensure that all children residing within the Moody Early Childhood Center boundaries who have disabilities, regardless of the severity of their disabilities, and who are in need of special education and related services are identified, located, and evaluated. This requirement applies to all children with disabilities, including:

1. Homeless children;
2. Children who are wards of the state;
3. Children attending private schools;
4. Highly mobile children (including migrant children); and
5. Children who are suspected of being in need of special education but who are advancing from grade to grade.

20 U.S.C. 1412(a)(3)(A); 34 CFR 300.111(a)(1)(i), (c).

a) Private School Students

Moody Early Childhood Center or designated provider shall coordinate with home school districts, who are primarily responsible for consulting with private school representatives regarding the child find process and the provision of special education and related services to children enrolled in private schools within the Moody Early Childhood Center boundaries.

Moody Early Childhood Center or designated provider shall undertake activities similar to those undertaken for public school children and shall complete the child find process for children enrolled in private schools in a time period comparable to that for other students attending the public schools within the Moody Early Childhood Center boundaries.

20 U.S.C. 1412(a)(10)(A)(ii)–(iv).

b) Preschool Students

Moody Early Childhood Center and designated provider shall develop a system to notify residents within the Moody Early Childhood Center boundaries with children who are at least three and younger than six and who are eligible for enrollment in a special education program of the availability of such programs.

Education Code 29.009.

SEC. 2. REFERRAL

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The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

20 U.S.C. 1414(a)(1)(E).

Referral of students for a full and individual initial evaluation for possible special education services shall be a part of Moody Early Childhood Center’s overall general education referral or screening system. Either a parent, the Texas Education Agency (“TEA”), another state agency, or Moody Early Childhood Center may initiate a request for an initial evaluation.

a) Obligation to Refer

Before referral, students experiencing difficulty in the general classroom should be considered for all support services available to all students. If a student continues to experience difficulty in the general classroom after the provision of interventions, Moody Early Childhood Center personnel must refer the student for a full and individual initial evaluation.

b) Parent Request

If a parent submits a written request for a full individual and initial evaluation of a student, Moody Early Childhood Center or designated provider shall, not later than the 15th school day after the date Moody Early Childhood Center receives the request:

1. Provide the parent with prior written notice of its proposal to conduct an evaluation consistent with 34 CFR 300.503, a copy of the procedural safeguards notice required by 34 CFR 300.504, and an opportunity to give written consent for the evaluation; or
2. Refuse to provide the evaluation and provide the parent or legal guardian with notice of procedural safeguards under 20 USC 1415(b).

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

SEC. 3. NOTICE OF RIGHTS

Moody Early Childhood Center or designated provider shall provide written notice to a student’s parent or guardian within a reasonable time before proposing or refusing to initiate the identification, evaluation, or educational placement of a student or the provision of a free appropriate public education (“FAPE”).

20 U.S.C. 1415(b)(3); 34 CFR 300.503(a).

SEC. 4. INITIAL EVALUATION

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Moody Early Childhood Center or designated provider shall conduct a full and individual initial evaluation before the initial provision of special education and related services to a child with a disability.

20 U.S.C. 1414(a)(1)(A).

a) Consent for Initial Evaluation

Moody Early Childhood Center or designated provider shall, after providing notice consistent with 34 CFR 300.503 and 300.504, obtain informed consent, consistent with 34 CFR 300.9, from the parent of the child before conducting the evaluation.

If the parent does not provide consent for an initial evaluation or fails to respond to a request to provide consent, Moody Early Childhood Center or designated provider may, but is not required to, pursue the initial evaluation by utilizing due process procedures, except to the extent inconsistent with state law relating to such parental consent.

Parental consent to initial evaluation shall not be construed as consent for placement for special education and related services.

20 U.S.C. 1414(a)(1)(D)(i)(1); 34 CFR 300.300.

b) Wards of the State

If the child is a ward of the state and is not residing with the child's parent, Moody Early Childhood Center or designated provider shall make reasonable efforts to obtain the informed consent from the parent for an initial evaluation, unless:

1. Moody Early Childhood Center or designated provider cannot discover the whereabouts of the parent, despite reasonable efforts to do so;
2. The rights of the parent have been terminated in accordance with State law; or
3. The rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and an individual appointed by a judge to represent the student has given consent for an initial evaluation.

20 U.S.C. 1414(a)(1)(D)(iii); 34 CFR 300.300(a)(2).

c) Completion of Written Report

Moody Early Childhood Center or designated provider must complete the written report of a full individual and initial evaluation:

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1. Not later than the 45th school day following the date on which Moody Early Childhood Center or designated provider in accordance with 20 USC 1414(a) receives written consent for the evaluation signed by the student’s parent or legal guardian. If a student has been absent from school during that period on three or more school days, the period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent; or
2. For students under five years of age by September 1 of the school year and not enrolled in public school and for students enrolled in a private or homeschool setting, not later than the 45th school day following the date on which Moody Early Childhood Center or designated provider receives written consent for the evaluation signed by the student’s parent or legal guardian.

If Moody Early Childhood Center or designated provider receives written consent for the evaluation from the student’s parent at least 35 but less than 45 school days before the last instructional day of the school year, the written report of a full individual and initial evaluation of a student must be provided to the student’s parent not later than June 30 of that year.

If Moody Early Childhood Center or designated provider receives written consent signed by a student’s parent less than 35 school days before the last instructional day of the school year or if Moody Early Childhood Center or designated provider receives the written consent at least 35 but less than 45 school days before the last instructional day of the school year but the student is absent from school during that period on three or more days, the report must be completed not later than the 45th school day following the date Moody Early Childhood Center or designated provider received written consent, except that the period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent.

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

“School day” does not include a day that falls after the last instructional day of the spring school term and before the first instructional day of the subsequent fall school term.

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

d) Transfer Students

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Moody Early Childhood Center or designated provider shall ensure that evaluations of children who transfer from one public school to another in the same academic year are coordinated with the children’s prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations.

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

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

1. The new school is making sufficient progress to ensure a prompt completion of the evaluation; and
2. The parent and the new school agree to a specific time when the evaluation will be completed.

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

SEC. 5. PSYCHOLOGICAL EXAMS

If Moody Early Childhood Center or designated provider determines that an additional examination or test is required for the evaluation, Moody Early Childhood Center or designated provider shall provide the information required by Education Code 29.0041(a) and shall obtain parental consent. If a parent does not give consent within 20 calendar days after the School provides the information, the parent’s consent is considered denied.

The time required for Moody Early Childhood Center or designated provider to provide information and seek consent may not be counted toward the timeline for completion of an evaluation under Education code 29.004.

Education Code 29.0041.

SEC. 6. ELIGIBILITY AND REEVALUATIONS

A student is eligible to participate in Moody Early Childhood Center’s special education program if:

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1. The student is between the ages of 3 and 21, inclusive;
2. The student has one or more of the disabilities listed in federal regulations, state law, or both; and
3. The student is not more than 21 years of age and has a visual or auditory impairment that prevents the student from being adequately or safely educated in the public schools without the provision of special services.

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

a) Determination of Initial Eligibility

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

Moody Early Childhood Center or designated provider shall provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

20 U.S.C. 1414(b)(4)(B); 34 CFR 300.306(a).

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

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

19 TAC 89.1011(d), (e).

b) Consent: Initial Provision of Services

Moody Early Childhood Center or designated provider must obtain informed consent from the parent for the initial provision of special education and related services. If the parent of a child

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fails to respond to a request for, or refuses to consent to, the initial provision of services, Moody Early Childhood Center or designated provider :

1. May not use the procedures in 34 CFR part 300 subpart E (including the mediation and due process procedures) in order to obtain agreement or a ruling that the services may be provided to the child;
2. Will not be considered to be in violation of the requirement to make FAPE available to the child for the failure to provide the services for which Moody Early Childhood Center or designated provider requests consent; and
3. Is not required to convene an ARD meeting or develop an IEP for the child for the services.

c) Consent: Revoking Consent

If, at any time after the provision of initial services, the parent of a child revokes consent in writing for the continued provision of services, Moody Early Childhood Center or designated provider :

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

34 CFR 300.300(b).

d) Reevaluations

Moody Early Childhood Center or designated provider shall ensure that each child with a disability is reevaluated if Moody Early Childhood Center or designated provider determines that the educational or related service 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 Moody Early Childhood Center or designated provider agree otherwise; and

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2. At least once every three years, unless the parent and Moody Early Childhood Center or designated provider agree that a reevaluation is unnecessary.

Moody Early Childhood Center or designated provider shall obtain informed parental consent before conducting a reevaluation, except that informed parental consent is not needed if Moody Early Childhood Center or designated provider can demonstrate that it has taken reasonable measures to obtain consent and the child's parent has failed to respond.

20 U.S.C. 1414(a)(2), (c)(3); 34 CFR 300.303.

e) Evaluation for Change in Eligibility

Moody Early Childhood Center or designated provider 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 from secondary school with a regular diploma or due to exceeding the age eligibility for FAPE under state law; a summary of academic achievement and functional performance must be provided in these circumstances.

20 U.S.C. 1414(c)(5); 34 CFR 300.305(e); 19 TAC 89.1070(g).

f) Independent Evaluation

Parents have a right to obtain an independent educational evaluation of their child. Upon such a request, Moody Early Childhood Center or designated provider shall provide the parents with information regarding where one can be obtained and Moody Early Childhood Center or designated provider's criteria for independent evaluations.

i. At Public Expense

If a parent requests an independent evaluation at public expense, Moody Early Childhood Center or designated provider shall, without unnecessary delay, either:

1. File a due process complaint to request a hearing to show that its evaluation is appropriate; or
2. Ensure that an independent evaluation is provided at public expense, unless Moody Early Childhood Center or designated provider demonstrates in a hearing pursuant to 34 CFR 300.507 through 300.513 that the evaluation obtained by the parent did not meet Moody Early Childhood Center or designated provider's criteria for independent evaluations.

ii. At Private Expense

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If Moody Early Childhood Center or designated provider initiates a hearing, and the final decision is that Moody Early Childhood Center or designated provider's evaluation is appropriate, the parent still has a right to an independent evaluation, but not at public expense. If the parent obtains an independent evaluation at private expense, Moody Early Childhood Center or designated provider shall consider the results of the evaluation, if it meets Moody Early Childhood Center or designated provider's criteria, in any decision made with respect to providing FAPE to the child.

34 CFR 300.502.

SEC. 7. REQUIRING PRESCRIPTION MEDICATION

Moody Early Childhood Center or designated provider employees are 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.

Moody Early Childhood Center or designated provider employees are 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).

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SEC. 1. DEFINITIONS

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

1. Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child to facilitate the child’s movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.
2. Is based on the individual child’s needs, taking into account the child’s strengths, preferences, and interests; and includes:
 - a. Instruction;
 - b. Related services;
 - c. Community experiences;
 - d. The development of employment and other post-school adult living objectives; and
 - e. If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

20 U.S.C. 1401(34); 34 CFR 300.43.

SEC. 2. INDIVIDUAL TRANSITION PLANNING

In accordance with Education Code 29.011 and 29.0111, not later than when a student reaches 14 years of age, the admission, review, and dismissal (“ARD”) committee must consider, and if appropriate, address the following issues in the individualized education program (“IEP”):

1. Appropriate student involvement in the student’s transition to life outside the public school system;
2. If the student is younger than 18 years of age, appropriate involvement in the student’s transition by the student’s parents and other persons, if the parent or other persons invited to participate by the student’s parents, Moody Early Childhood Center, or designated provider;
3. If the student is at least 18 years of age, involvement in the student’s transition and future by the student’s parents and other persons, if the parent or other person is invited to participate by the student, Moody Early Childhood Center, designated provider, or has the student’s consent to participate pursuant to a supported decision-making agreement under Texas Estates Code, Chapter 1357;
4. Appropriate postsecondary education options, including preparation for postsecondary-level coursework;
5. An appropriate functional vocational evaluation;
6. Appropriate employment goals and objectives;
7. If the student is at least 18 years of age, the availability of age-appropriate instructional environments, including community settings or environments that prepare the student for

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postsecondary education or training, competitive integrated employment, or independent living, in coordination with the student’s transition goals and objectives;

8. Appropriate independent living goals and objectives;
9. Appropriate circumstances for facilitating a referral of a student or the student’s parents to a governmental agency for services or public benefits; and
10. The use and availability of appropriate supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills and supports and services to foster the student’s independence and self-determination, including a supported decision-making agreement under Texas Estates Code, Chapter 157.

In accordance with 34 C.F.R. 300.320(b), beginning not later than the first IEP to be in effect when the student turns 16 years of age, or younger if determined appropriate by the ARD committee, and updated annually thereafter, the IEP must include the following:

1. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
2. The transition services, including courses of study, needed to assist the student in reaching the postsecondary goals developed under paragraph (1) of this subsection.

The student’s ARD committee shall annually review and, if necessary, update relevant portions of the student’s IEP.

20 U.S.C. 1414(d)(1)(A)(i)(VIII), 1414(d)(6); 34 C.F.R. 300.320(b); Education Code 29.0111; 19 TAC 89.1055(h), (j).

SEC. 3. TRANSITION AND EMPLOYMENT GUIDE

Moody Early Childhood Center or designated provider shall utilize the transition and employment guide developed by the Texas Education Agency for use with students enrolled in special education programs and their parents, as appropriate. Specifically, Moody Early Childhood Center or designated provider shall:

1. Post the transition and employment guide on the Moody Early Childhood Center or designated provider’s website;
2. Provide written information and, if necessary, assistance to a student or parent regarding how to access the electronic version of the guide at:
 - a. The first ARD committee meetings at which transition is discussed; and
 - b. The first ARD committee meeting at which transition is discussed that occurs after the guide is updated; and
3. On request, provide a printed copy of the guide to a student or parent.

Education Code 29.0112(a)(3).

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SEC. 4. GRADUATION

Graduation with a regular high school diploma under 19 TAC 89.1070(b)(1), (b)(2)(D), (g)(1), (g)(2), or (g), or (g)(4)(D) terminates a student’s eligibility for special education services. For students who receive a diploma according to 19 TAC 89.1070(b)(2)(A), (B), or (C) or (g)(4)(A), (B), or (C), the ARD committee shall determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age requirements.

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

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

Moody Early Childhood Center or designated provider shall provide the child with a summary of the child’s academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child’s postsecondary goals.

20 U.S.C. 1414(c)(5); 34 CFR 300.102(a)(3), 300.305(e)(2); 19 TAC 89.1070(a), (k).

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SEC. .1. DYSLEXIA AND RELATED DISORDERS

The Board shall ensure that procedures are implemented for identifying and providing appropriate, evidence-based instructional services to students for dyslexia and related disorders. These procedures shall be implemented in accordance with the State Board of Education’s *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders (Dyslexia Handbook 2021 Update)*. 19 TAC 74.28. Moody Early Childhood Center shall provide a copy or a link to the electronic version of the *Dyslexia Handbook* to parents of children suspected to have dyslexia or a related disorder.

SEC. .2. IDENTIFICATION AND TESTING

Students enrolling in Moody Early Childhood Center shall be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the State Board of Education. This program includes a screening at the end of each school year for each student in kindergarten and each student in first grade.

Moody Early Childhood Center must make available a process for early identification, intervention, and support for students at risk for dyslexia and related disorders in accordance with the *Dyslexia Handbook*. Moody Early Childhood Center may not use early intervention strategies, including multi-tiered systems of support, to delay or deny the provision of a full and individual evaluation to a child suspected of having a specific learning disability, including dyslexia or a related disorder.

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

19 TAC 74.28(d), (j).

a) IDEA Referral

If the team suspects that the student has dyslexia, a related disorder, or another disability included within the Individuals with Disabilities Education Act (“IDEA”), the team must refer the student for a full individual and initial evaluation (FIIE).

Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders (Dyslexia Handbook 2021 Update).

b) IDEA Notice

Before a full individual and initial evaluation is conducted to determine whether a student has a disability under the IDEA, Moody Early Childhood Center or designated provider must notify the student’s parent of its proposal to conduct an evaluation consistent with 34 CFR 300.503,

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provide all the information required in the above notice, and provide an opportunity for written consent for the evaluation. Moody Early Childhood Center or designated provider must also provide a copy of the IDEA's procedural safeguards. Notice required under 34 CFR 300.504 and a copy of Section 504 information required under Education Code 26.0081.

c) Parent Notification and Consent for FIIIE

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

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

19 TAC 74.28(f)

d) Options and Services

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

19 TAC 74.28(f)-(h).

SEC. .3. TREATMENT

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

19 TAC 74.28(i).

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a) Reading Program

Moody Early Childhood Center or designated provider shall purchase a reading program or develop its own reading program for students with dyslexia and related disorders that is aligned with the descriptors found in the *Dyslexia Handbook*.

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

19 TAC 74.28(e).

b) Reassessment

Unless otherwise provided by law, a student determined to have dyslexia during testing or accommodated because of dyslexia may not be retested for dyslexia for the purpose of reassessing the student's need for accommodations until Moody Early Childhood Center or designated provider reevaluates the information obtained from previous testing of the student.

SEC. .4. PARENT EDUCATION PROGRAM

Moody Early Childhood Center or designated provider shall provide a parent education program for parents of students with dyslexia and related disorders. This program must include:

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

Education Code 38.003; 19 TAC 74.28(l).

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SEC. 1. REQUIREMENTS UNDER TITLE III OF ESEA

Moody Early Childhood Center shall comply with the statutory requirements regarding English learners¹ and immigrant students upon receipt of funds under Title III of the Every Student Succeeds Act.

20 U.S.C. 6801–7014.

SEC. 2. STATE POLICY

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

SEC. 3. MOODY EARLY CHILDHOOD CENTER RESPONSIBILITIES

Moody Early Childhood Center shall:

1. Identify English learners based on criteria established by the state;
2. Provide bilingual education and ESL programs, as integral parts of its regular program;
3. Seek certified teaching personnel to ensure that English learners students are afforded full opportunity to master the essential skills and knowledge required by the state; and
4. Assess achievement for essential knowledge and skills in accordance with Chapter 29, Education Code to ensure accountability for English learners and the schools that serve them.

19 TAC 89.1201(a).

SEC. 4. IDENTIFYING ENGLISH LEARNER STUDENTS

Within the first four weeks following the first day of school, the language proficiency assessment committee (LPAC) shall determine and report to the Board the number of English learner students at each campus and shall classify each student according to the language in which the student possesses primary proficiency. The Board shall report that information to the Texas Education Agency (“TEA”) before November 1 every year. *Education Code 29.053(b).*

SEC. 5. LANGUAGE PROFICIENCY ASSESSMENT COMMITTEES

Moody Early Childhood Center shall establish and operate a sufficient number of LPACs to enable them to discharge their duties within four weeks of the enrollment of English learner students.

¹ In this policy, the term “English learner” is synonymous with “emergent bilingual” student, as that term is used in Subchapter B, Chapter 29, Education Code.

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a) LPAC Membership

Each LPAC shall include:

1. An appropriately certified bilingual educator (for students served through bilingual education);
2. An appropriately certified English as a second language (ESL) educator (for students served through an ESL program);
3. A parent of the English learner participating in a bilingual or ESL program; and
4. A campus administrator.

Moody Early Childhood Center may add other trained members to the committee in any of the required categories. If Moody Early Childhood Center does not have an individual in one or more of the job classifications required, another professional staff member shall be designated to serve on the LPAC.

No parent serving on the LPAC shall be an employee of Moody Early Childhood Center.

All members of the LPAC, including parents, shall observe all laws and guidelines concerning student confidentiality. Moody Early Childhood Center will provide orientation and training for all members of the LPAC, including parents.

Education Code 29.063; 19 TAC 89.1220(a)-(f).

b) Duties of LPAC

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

c) Home Language Survey

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

Moody Early Childhood Center shall conduct only one home language survey of each student.

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

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

If the response on the home language survey indicates that a language other than English is used, the student shall be tested in accordance with 19 Texas Administrative Code § 89.1226.

19 TAC 89.1215.

d) Classification as an English Learner

The LPAC may classify a student as an English learner if:

1. The student’s ability in English is so limited or the student’s disabilities are so severe that assessment procedures cannot be administered;
2. The student’s score or relative degree of achievement on the TEA-approved English proficiency test is below the levels established by TEA as indicative of reasonable proficiency;
3. The student’s primary language proficiency score as measured by a TEA-approved test is greater than the student’s proficiency in English; or
4. The LPAC determines, based on other information, including a teacher evaluation, parental viewpoint, or student interview, that the student’s primary language proficiency is greater than the student’s proficiency in English or that the student is not reasonably proficient in English.

Education Code 29.056(c).

e) Parent Notice and Consent

Not later than the 10th day after the LPAC’s classification of a student as an English learner, the LPAC shall give written notice of the classification to the student’s parent. The notice must be in English and in the parent’s primary language. The parents of students eligible to participate in the required bilingual education program shall be informed of the benefits of the bilingual education or special language program and that it is an integral part of the school program.

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

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

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Pending parent approval, Moody Early Childhood Center shall place the student in the recommended program, but may count only English learner students with parental approval for bilingual education allotment.

Education Code 29.056(a), (d); 19 TAC 89.1220(j).

Moody Early Childhood Center may identify, exit, or place a student in a program without written parent approval if:

1. The student is 18 years of age or has had the disabilities of minority removed;
2. The parent provides approval by telephone or email that is documented in writing and retained; or
3. An adult recognized by Moody Early Childhood Center as standing in parental relation to the student provides written approval. This may include a foster parent, or employee of a state or governmental agency with temporary possession or control of the student.

19 TAC 89.1220(j), (m), .1240(a).

f) Participation of Non-English Learner Students

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

Education Code 29.058; 19 TAC 89.1233(c).

g) Students with Disabilities

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

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

19 TAC 89.1230.

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SEC. 6. BILINGUAL AND ESL PROGRAMS

Upon the enrollment of 20 or more English learner students in any language classification in the same grade, Moody Early Childhood Center shall offer a bilingual education or special language program as follows:

1. Bilingual education in prekindergarten through the elementary grades.
2. Bilingual education, instruction in English as a second language, or other TEA-approved transitional language instruction in post-elementary grades through 8th grade.
3. Instruction in English as a second language in grades 9–12.

If a program other than bilingual education must be used in prekindergarten through the elementary grades, documentation for the exception must be filed with and approved by TEA.

Education Code 29.053(c)-(d), 29.054(a).

a) *Program Content*

Moody Early Childhood Center’s bilingual education program shall be a full-time program of dual-language instruction that provides for learning basic skills in the primary language of the students enrolled in the program and for carefully structured and sequenced mastery of English language skills. An ESL program shall be an intensive program of instruction in English from teachers trained in recognizing and dealing with language differences. The bilingual or ESL program shall be designed to consider the students’ learning experiences and shall incorporate the cultural aspects of the students’ backgrounds.

English learners shall participate fully with English-speaking students in regular classes provided in subjects such as art, music, and physical education. Moody Early Childhood Center shall provide students enrolled in the bilingual or ESL program a meaningful opportunity to participate fully with other students in all extracurricular activities. Elective courses may be taught in a language other than English.

Education Code 29.055, .057(b); 19 TAC 89.1210(f).

b) *Classes and Facilities*

Students enrolled in the bilingual or ESL programs shall be placed in classes with other students of approximately the same age and level of educational attainment. Moody Early Childhood Center shall ensure that each student’s instruction is appropriate to the student’s level of educational attainment, and Moody Early Childhood Center shall keep adequate records of the educational level and progress of each student enrolled in the program.

Bilingual education and special language programs shall be located in each regular Moody Early Childhood Center campus rather than in separate facilities. Moody Early Childhood Center may

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concentrate the programs at a limited number of schools. Recent immigrant English learners shall not remain enrolled in newcomer centers for longer than two years.

Education Code 29.057; 19 TAC 89.1235.

SEC. 7. COOPERATION AMONG DISTRICTS

Moody Early Childhood Center may join with one or more other public schools to provide the required bilingual and special language programs. The availability of the programs shall be publicized throughout the schools involved.

Moody Early Childhood Center may allow a nonresident English learner student to enroll in or attend its bilingual education or special language program if the student's district of residence does not provide an appropriate program. The district of residence shall pay the tuition for the student.

Education Code 29.059; 19 TAC 89.1205(e).

SEC. 8. SUMMER PROGRAM

If Moody Early Childhood Center is required to offer a bilingual education or special language program, it shall offer a voluntary summer school program for English learners who will be eligible for admission to kindergarten or first grade at the beginning of the next school year.

The program must be an intensive bilingual education or special language program that meets the standards set by TEA, and the student/teacher ratio may not exceed 18:1. Moody Early Childhood Center shall comply with the requirements of 19 TAC 89.1250 in providing such a program.

a) Other Programs

Moody Early Childhood Center may establish on a full- or part-time basis other summer school, extended day, or extended week bilingual or special language programs for English learners and may join with other districts in establishing such programs. Neither the summer program nor the other programs may substitute for the program to be provided during the regular school year.

Education Code 29.060.

SEC. 9. PERSONNEL

Teachers assigned to bilingual education and ESL programs must be appropriately certified in bilingual education or ESL, respectively. *Education Code 29.061(b), (c).*

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If Moody Early Childhood Center is unable to hire a sufficient number of teachers with bilingual teaching or ESL certificates, Moody Early Childhood Center may file an application for exception with TEA in accordance with 19 TAC 89.1207.

Education Code 29.054; 19 TAC 89.1207.

SEC. 10. ENGLISH LEARNERS AND STATE ASSESSMENTS

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

SEC. 11. PROGRAM EXIT

Moody Early Childhood Center may transfer an English learner out of a bilingual education or special language program for the first time or a subsequent time if the student is able to participate equally in a regular all-English instructional program as determined by:

1. TEA-approved tests administered at the end of each school year to determine the extent to which the student has developed oral and written language proficiency and specific language skills in English;
2. Satisfactory performance on the reading assessment instrument under Education Code 39.023(a) or an English language arts assessment instrument under Education Code 39.023(c), as applicable, with the assessment instrument administered in English, or, if the student is enrolled in the first or second grade, an achievement score at or above the 40th percentile in the reading and language arts sections of an English standardized test approved by the TEA; and
3. TEA-approved criterion-referenced tests and the results of a subjective teacher evaluation.

Education Code 29.056(g).

a) *Notice to Parents*

Moody Early Childhood Center shall notify the student's parent in writing of the student's reclassification as English proficient and his or her exit from the bilingual education or English as a second language program and acquire written approval as required under Education Code 29.056(a). Students meeting exit requirements may continue in the bilingual or English as a second language program with parental approval but are not eligible for inclusion in Moody Early Childhood Center's bilingual education allotment.

19 TAC 89.1240(b).

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b) Evaluation of Transferred Students and Reenrollment

The LPAC committee shall reevaluate a student who is transferred out of a bilingual education or special language program if the student earns a failing grade in a subject in the foundation curriculum during any grading period in the first two school years after the student is transferred to determine whether the student should be re-enrolled in a bilingual education or special language program.

During the first two school years after a student is transferred out of a bilingual education or special language program, the LPAC shall review the student's performance and consider:

1. The total amount of time the student was enrolled in bilingual education or special language programs;
2. The student's grades each grading period in each subject in the foundation curriculum;
3. The student's performance on state assessment instruments;
4. The number of credits the student has earned toward high school graduation, if applicable; and
5. Any disciplinary actions taken against the student under the Student Code of Conduct.

After the evaluation, the LPAC may require intensive instruction for the student or re-enroll the student in a bilingual education or special language program.

Education Code 29.0561.

SEC. 12. PEIMS REPORTING REQUIREMENTS

If required to offer bilingual education or special language programs, Moody Early Childhood Center shall include the following information in its PEIMS report as required by Education Code 29.006(a):

1. Demographic information on students enrolled in Moody Early Childhood Center's bilingual education or special language programs;
2. The number and percentage of students enrolled in each instructional model of a bilingual education or special language program offered by Moody Early Childhood Center; and
3. The number and percentage of students identified as English learners who do not receive specialized instruction.

SEC. 13. PROGRAM EVALUATION

If Moody Early Childhood Center is required to conduct a bilingual education or ESL program, it shall conduct an annual evaluation in accordance with Education Code 29.053, collecting a full range of data to determine program effectiveness to ensure student academic success. The annual

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evaluation report shall be presented to the Board before November 1 of each school year, and the report shall be retained at the administrative level in accordance with Education Code 29.062.

Moody Early Childhood Center shall report to parents the progress of their child in acquiring English as a result of participation in the program offered to English learners.

19 TAC 89.1265.

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SEC. 1. RECEIPT OF TITLE I FUNDS

Moody Early Childhood Center may receive funds under Title I, Part A only if agreed upon in SB1882 contract, and Moody Early Childhood Center conducts outreach to all parents and family members and implements programs, activities, and procedures for the involvement of parents in programs assisted under Title I, Part A, consistent with 20 U.S.C. 6318. Such programs, activities, and procedures shall be planned and implemented with meaningful consultation with parents of participating children.

20 U.S.C. 6318(a)(1).

a) *Moody Early Childhood Center Policy*

If Moody Early Childhood Center receives Title I, Part A funds, Moody Early Childhood Center shall develop jointly with, agree on with, and distribute to parents and family members of participating children a written parent and family engagement policy. The policy shall be incorporated into a school plan developed under 20 U.S.C. 6312, establish Moody Early Childhood Center's expectations and objectives for meaningful parent and family involvement, and describe how Moody Early Childhood Center will:

1. Involve parents and family members in jointly developing the district plan under 20 U.S.C. 6312, and the development of support and improvement plans under paragraphs (1) and (2) of 20 U.S.C. 6311(d);
2. Provide the coordination, technical assistance, and other support necessary to assist and build the capacity of all participating schools within Moody Early Childhood Center in planning and implementing effective parent and family involvement activities to improve student academic achievement and school performance, which may include meaningful consultation with employers, business leaders, and philanthropic organizations, or individuals with expertise in effectively engaging parents and family members in education;
3. Coordinate and integrate parent and family engagement strategies under Title I, Part A with parent and family engagement strategies, to the extent feasible and appropriate, with other relevant federal, state, and local laws and programs;
4. Conduct, with the meaningful involvement of parents and family members, an annual evaluation of the content and effectiveness of the parent and family engagement policy in improving the academic quality of all schools served under Title I, Part, A, including identifying:
 - a. Barriers to greater participation by parents in activities authorized by section 6318 (with particular attention to parents who are economically disadvantaged, are disabled, have limited English proficiency, have limited literacy, or are of any racial or ethnic minority background);
 - b. The needs of parents and family members to assist with the learning of their children, including engaging with school personnel and teachers; and

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- c. Strategies to support successful school and family interactions;
5. Use the findings of the above evaluation to design evidence-based strategies for more effective parental involvement, and to revise, if necessary, the parent and family engagement policies described in section 6318; and
6. Involve parents in the activities of the schools served under Title I, Part A, which may include establishing a parent advisory board comprised of a sufficient number and representative group of parents or family members served by Moody Early Childhood Center to adequately represent the needs of the population served by Moody Early Childhood Center for the purposes of developing, revising, and reviewing the parent and family engagement policy.

20 U.S.C. 6318(a)(2).

b) Campus Policy

Each Moody Early Childhood Center campus served under Title I, Part A shall jointly develop with, and distribute to, parents and family members of participating children a written parent and family involvement policy, agreed on by such parents, that shall describe the means for carrying out the requirements of 20 U.S.C. 6318(c)–(f). Parents shall be notified of the policy in an understandable and uniform format and, to the extent practicable, provided in a language the parents can understand. Such policy shall be made available to the local community and updated periodically to meet the changing needs of parents and the school.

20 U.S.C. 6318(b).

c) Comparability of Services

Moody Early Childhood Center may receive Title I, Part A funds for any fiscal year only if the Texas Education Agency (TEA) finds that Moody Early Childhood Center has maintained its fiscal effort in accordance with 20 U.S.C. 7901.

20 U.S.C. 6321(a).

Moody Early Childhood Center shall use federal funds received under Title I, Part A only to supplement, not supplant, the funds that would, in the absence of such federal funds, be made available from state and local sources for the education of students participating in programs assisted under Part A.

20 U.S.C. 6321(b).

Moody Early Childhood Center may receive Title I, Part A funds only if state and local funds will be used in Title I, Part A schools to provide services that, taken as a whole, are at least

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comparable to services in schools that are not receiving Title I, Part A funds. Moody Early Childhood Center may meet this requirement on a grade-span basis or a school-by-school basis.

For purposes of determining comparability, Moody Early Childhood Center may exclude state and local funds expended on language instruction educational programs and the excess costs of providing services to children with disabilities as determined by Moody Early Childhood Center.

Moody Early Childhood Center will be considered to have met the comparability requirements if Moody Early Childhood Center has filed with TEA a written assurance that Moody Early Childhood Center has established and implemented:

1. A district-wide salary schedule;
2. A policy to ensure equivalence among schools in teachers, administrators, and other staff; and
3. A policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

20 U.S.C. 6321(c).

d) Prohibited Use of Funds

No funds received through the Elementary and Secondary Education Act (ESEA) may be used:

1. For construction, renovation, or repair of any school facility, except as authorized under ESEA;
2. For transportation unless otherwise authorized under ESEA;
3. To develop or distribute materials, or operate programs or courses of instruction directed at youth, that are designed to promote or encourage sexual activity, whether homosexual or heterosexual;
4. To distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;
5. To provide sex education or HIV-prevention education in schools unless that instruction is age appropriate and includes the health benefits of abstinence; or
6. To operate a program of contraceptive distribution in schools.

20 U.S.C. 7906.

SEC. 2. HOMELESS CHILDREN

As a condition of receiving funds under the McKinney-Vento Homeless Education Assistance Improvements Act, Moody Early Childhood Center shall serve homeless children according to their best interests.

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42 U.S.C. 11432.

SEC. 3. FOSTER CARE TRANSPORTATION

As a condition to receiving funds under Title I, Part A, Moody Early Childhood Center shall collaborate with the state or local child welfare agency to:

1. Ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with 42 U.S.C. 675(4)(A) and to the extent required by law; and
2. Ensure that, if there are additional costs incurred in providing transportation to maintain children in foster care in their schools of origin, Moody Early Childhood Center or partner agency will, to the extent required by law, provide transportation to the school of origin if:
 - a. The local child welfare agency agrees to reimburse Moody Early Childhood Center or partner agency for the cost of transportation;
 - b. Moody Early Childhood Center or partner agency agrees to pay the cost of transportation; or
 - c. Moody Early Childhood Center or partner agency and the local welfare agency agree to share the cost of such transportation.

20 U.S.C. 6312(c)(5).

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SEC. 1. PARENTAL ELECTION

Subject to Section 2, a parent or guardian may elect for a student to repeat certain courses and grades as set forth below. An election made by a parent or guardian under this Section shall be made in writing to Moody Early Childhood Center.

Education Code 28.02124(a)-(b).

a) *Prekindergarten – Third Grade*

Subject to Section 2 below, a parent or guardian may elect for a student to:

1. repeat prekindergarten;
2. enroll in prekindergarten, if the student would have been eligible to enroll in prekindergarten during the previous school year under Section 29.153(b) and the student has not yet enrolled in kindergarten;
3. repeat kindergarten;
4. enroll in kindergarten, if the student would have been eligible to enroll in kindergarten in the previous school year and has not yet enrolled in first grade; or
5. for grades one through three, repeat the grade in which the student was enrolled during the previous school year.

Education Code 28.02124(a).

b) *Fourth through Eighth Grade*

For grades four through eight, a parent or guardian may elect to, or grades four through eight, repeat the grade the student was enrolled in during the previous school year subject to Section 2 below. This option is only available for students who repeat courses during the 2021-2022 school year or who otherwise enroll during the 2021-2022 school year.

Education Code 28.02124(a-1)(1),(a-2).

c) *High School Credit Courses*

For courses taken for high school credit, a parent or guardian may elect for a student to repeat any course in which the student was enrolled in during the previous school year subject to Section 2 below. This option is not available for students if Moody Early Childhood Center determines the student has met all of the requirements for graduation and only applicable to students who repeat courses during the 2021-2022 school year or who otherwise enroll during the 2021-2022 school year.

Education Code 28.02124(a-1)(2),(a-2),(a-3).

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SEC. 2. RETENTION COMMITTEE

If Moody Early Childhood Center disagrees with an election authorized under Education Code 28.02124, Moody Early Childhood Center must convene a retention committee and meet with the parent to discuss retention. A student may not be retained for a grade or retake a course under Education Code 28.02124 if the parent or guardian does not meet with the retention committee.

a) Meeting Format

The retention committee meeting shall be conducted in person unless an alternative means is agreeable to the parent or guardian.

Education Code 28.02124(c).

b) Committee Members

The retention committee shall be composed of:

1. the Executive Director or the Executive Director's designee;
2. student's parent or guardian;
3. the teacher who taught the grade or course for which the parent wants the student retained or repeated; and
4. additional teachers at the discretion of the Executive Director, if the student will potentially repeat multiple courses.

Education Code 28.02124(d).

c) Meeting Requirements

During the meeting, the retention committee shall:

1. discuss the merits of and concerns with advancement and retention; and
2. review and consider the student's grade in each subject or course, the results of any formative or summative assessments administered to the student, and any other available academic information to determine the student's academic readiness for the next grade or a given course.

Education Code 28.02124(e).

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d) Retention Decision

After the parent or guardian participates in the retention committee meeting, the parent or guardian shall decide whether the student should be retained or retake a grade or course. Moody Early Childhood Center must abide by the decision of the parent or guardian.

Education Code 28.02124(f).

SEC. 3. TRANSFER OF RIGHTS

The rights of a parent or guardian under Education Code 28.02124 and this policy transfer to a student if the student is 18 years of age or older or has had the disabilities of a minor removed, unless the student is under a form of guardianship imposed by law or court order that continues after the student turns 18 years of age.

Education Code 28.02124(i).

SEC. 1. STATEMENT OF NONDISCRIMINATION

Moody Early Childhood Center does not exclude from participation in, deny the benefits of, or subject to discrimination on the basis of race, religion, color, national origin, sex, age, disability, or relationship or association with an individual with a disability in providing educational services, activities, and programs, including vocational and career technology programs, in accordance with Title VI of the Civil Rights Act of 1964, as amended; the Individuals with Disabilities Education Act, as amended; Title IX of the Educational Amendments of 1972, as amended; the Americans with Disabilities Act (“ADA”), as amended, and Section 504 of the Rehabilitation Act of 1973, as amended.

SEC. 2. GRIEVANCE PROCEDURES

Moody Early Childhood Center shall adopt and public grievance procedures for prompt and equitable resolution of student complaints alleging discrimination under applicable law. *34 CFR 106.8 (Title IX); 34 CFR 104.7 (Section 504)*. The Superintendent or designee shall ensure that such grievance procedures are distributed and otherwise made available to parents and students.

a) Title IX Coordinator

Moody Early Childhood Center designates the following person(s) to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended: Karin Miller, Executive Director, 1110 21st Street, Galveston, Texas 77550, (409) 761-6930.

b) ADA/Section 504 Coordinator

Reports of discrimination based on disability may be directed to the ADA/Section 504 Coordinator. Moody Early Childhood Center designates the following person(s) to coordinate its efforts to comply with the requirements of Section 504 of the Rehabilitation Act of 1973, as amended: Karin Miller, Executive Director, 1110 21st Street, Galveston, Texas 77550, (409) 761-6930.

c) Coordinator for Purposes of Compliance with Other Nondiscrimination Laws

The following person(s) have been designated to coordinate Moody Early Childhood Center’s compliance with all other antidiscrimination laws: Karin Miller, Executive Director, 1110 21st Street, Galveston, Texas 77550, (409) 761-6930.

SEC. 3. EQUAL EDUCATIONAL OPPORTUNITY

Moody Early Childhood Center shall provide necessary services and supports to provide students equal access to educational opportunities. Certain instructional or other accommodations, including on state-mandated assessments, may be made when necessary, when allowable, and when these accommodations do not modify the rigor or content expectations of a subject, course, or assessment.

If Moody Early Childhood Center has reason to believe that a student has a disability that may require additional services and supports in order for the student to receive an appropriate education as this term is defined by law, Section 504 and/or the Individuals with Disabilities Education Act (“IDEA”) shall govern the evaluation, services, and supports provided by Moody Early Childhood Center.

SEC. 4. COMPLAINTS

Except as otherwise provided in Policy or Procedure, allegations of unlawful discrimination, prohibited harassment, or retaliation shall be made under board policy (Freedom from Discrimination, Harassment, and Retaliation).

Complaints concerning identification, evaluation, or educational placement of a student with a disability within the scope of Section 504 shall be filed under the General Provisions of board policy, except that the deadline for filing an initial Level One grievance shall be twenty (20) school days.

SEC. 5. RETALIATION

Moody Early Childhood Center shall not coerce, intimidate, threaten, retaliate against, or interfere with any person who attempts to assert a right protected by the above laws or cooperates with investigation and enforcement proceedings under these laws. *34 CFR 100.7(e) (Title VI), 104.61 (Section 504), 106.71 (Title IX).*

SEC. 6. DISABILITY DISCRIMINATION

Under the ADA, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of Moody Early Childhood Center, or be subjected to discrimination by Moody Early Childhood Center. *42 U.S.C.A. 12132; 28 CFR 35.130.*

Under Section 504, no otherwise qualified individual with a disability shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

a) Student with a Disability

A “student with a disability” is one who has a physical or mental impairment that substantially limits one or more of the student’s major life activities, has a record of having such an impairment, or is being regarded as having such an impairment.

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

A student meets the requirement of being “regarded as” having an impairment if the student establishes that he or she has been subjected to a prohibited action because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. This provision does not apply to impairments that are transitory or minor. A transitory impairment one with an actual or expected duration of six months or fewer.

29 U.S.C. 705(20)(B), 42 U.S.C. 12102(1), (3)–(4).

b) Qualified Individual with a Disability

The term “qualified individual with a disability” means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by Moody Early Childhood Center. *42 U.S.C. 12131(2).*

c) Major Life Activities

“Major life activities” include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. “Major life activity” also includes the operation of major bodily functions, including functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. *42 U.S.C. 12102(2).*

d) Reasonable Modification

Moody Early Childhood Center shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless Moody Early Childhood Center can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. *28 CFR 35.130(b)(7)*.

e) Direct Threat

“Direct threat” means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services as provided below.

Moody Early Childhood Center is not required to permit an individual to participate in or benefit from the services, programs, or activities of Moody Early Childhood Center when that individual poses a direct threat to the health or safety of others.

In determining whether an individual poses a direct threat to the health or safety of others, Moody Early Childhood Center must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain:

1. The nature, duration, and severity of the risk;
2. The probability that the potential injury will actually occur; and
3. Whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

28 CFR 35.139.

f) Free Appropriate Public Education (“FAPE”)

Moody Early Childhood Center shall provide a free appropriate public education to each qualified student with a disability within Moody Early Childhood Center’s jurisdiction, regardless of the nature or severity of the student’s disability. A student with a disability is “qualified” if he or she is between the ages of three and 21. An appropriate education is the provision of regular or special education and related services that are:

1. Designed to meet the student’s individual educational needs as adequately as the needs of students who do not have disabilities are met; and
2. Based on adherence to procedures that satisfy federal requirements for educational setting, evaluation and placement, and procedural safeguards, as set forth below.

34 CFR 104.33(b).

g) Educational Setting

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Moody Early Childhood Center shall place a student with a disability in the regular educational environment, unless Moody Early Childhood Center demonstrates that education in the regular environment with the use of supplemental aids and services cannot be achieved satisfactorily. *34 CFR 104.34(a)*.

In providing or arranging for nonacademic and extracurricular services and activities, Moody Early Childhood Center shall ensure that a student with a disability participates with students who do not have disabilities to the maximum extent appropriate to the needs of the student with a disability. *34 CFR 104.34(b), 104.37*.

h) Evaluation and Placement

Moody Early Childhood Center shall establish standards and procedures for the evaluation and placement of persons who, because of disability, need or are believed to need special education and related services. Moody Early Childhood Center shall conduct an evaluation before the initial placement, or any significant change in placement, of the student. *34 CFR 104.35*.

i) Military Dependents

In compliance with the requirements of Section 504, and with Title II of the ADA, Moody Early Childhood Center shall make reasonable accommodations and modifications to address the needs of incoming military dependents with disabilities, subject to an existing Section 504 or Title II Plan, to provide the student with equal access to education. This does not preclude Moody Early Childhood Center from performing subsequent evaluations to ensure appropriate placement of the student. *Education Code 162.002 art. V, C*.

j) Procedural Safeguards

Moody Early Childhood Center shall establish a system of procedural safeguards with respect to the identification, evaluation, and educational placement of persons who need or are believed to need special instruction or related services.

The system shall include notice, an opportunity for the student's parent or guardian to examine relevant records, an impartial hearing with the opportunity for participation by the student's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of IDEA is one means of meeting this requirement. *34 CFR 104.36*.

SEC. 7. HOMELESS CHILDREN

Moody Early Childhood Center shall adopt policies and practices to ensure that homeless children are not stigmatized or segregated on the basis of their homeless status.

a) Liaison

Moody Early Childhood Center shall designate an appropriate staff person as the liaison for homeless children. Moody Early Childhood Center shall inform school personnel, service providers, and advocates working with homeless families of the duties of the liaison. *42 U.S.C. 11432(g)(1)(J)(i), (ii), (g)(6)(B)*.

SEC. 8. DISCRIMINATION ON THE BASIS OF SEX

No person shall, on the basis of sex, be excluded from participation in, denied the benefits of, or be subjected to discrimination by Moody Early Childhood Center. *20 U.S.C. 1681(a)*.

Moody Early Childhood Center shall not provide any course or otherwise carry out any of its educational programs or activities separately on the basis of sex, or require or refuse participation therein on the basis of sex, including health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses. *34 CFR 106.34*.

a) Sexual Harassment

Sexual harassment of students is discrimination on the basis of sex under Title IX.

b) Separate Facilities

Moody Early Childhood Center may provide separate toilet, locker room, and shower facilities on the basis of sex, but the facilities provided for one sex shall be comparable to the facilities provided for the other sex. *34 CFR 106.33*.

c) Human Sexuality Classes

Portions of classes in elementary and secondary school that deal exclusively with human sexuality may be conducted in separate sessions for boys and girls.

d) Vocal Music Activities

Moody Early Childhood Center may make requirements based on vocal range or quality that may result in a chorus or choruses of one or predominantly one sex.

34 CFR 106.34.

e) Single-Sex Programs

Moody Early Childhood Center shall not, on the basis of sex, exclude any student from admission to an institution of vocational education operated by Moody Early Childhood Center. *34 CFR 106.35.*

f) Pregnancy and Marital Status

Moody Early Childhood Center shall not apply any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex. *34 CFR 106.40.*

g) Physical Education Classes and Contact Sports

Moody Early Childhood Center may group students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.

Moody Early Childhood Center may separate students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact.

34 CFR 106.34.

h) Athletic Programs

Moody Early Childhood Center shall not discriminate, on the basis of sex, in interscholastic or intramural athletics or provide any such athletics separately on such basis.

i. Single-Sex Teams

Moody Early Childhood Center may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but not for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try out for the team offered unless the sport involved is a contact sport.

ii. Equal Athletic Opportunities

Moody Early Childhood Center shall provide equal interscholastic and/or intramural athletic opportunity for members of both sexes. The following factors will be considered in determining whether Moody Early Childhood Center provides equal athletic opportunities:

1. Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;
2. The provision of equipment and supplies;
3. Scheduling of games and practice time;
4. Travel and per diem allowance;
5. Opportunity to receive coaching and academic tutoring;
6. Assignment and compensation of coaches and tutors;
7. Provision of locker rooms, practice and competitive facilities;
8. Provision of medical and training facilities and services;
9. Provision of housing and dining facilities and services; and
10. Publicity.

34 CFR 106.41.

SEC. 9. SECTION 504 COMMITTEES

Moody Early Childhood Center shall form Section 504 committees as necessary. The Section 504 coordinator and members of each Section 504 committee shall receive training in the procedures and requirements for identifying and providing educational and related services and supports to a student who has a disability that results in a substantial limitation of a major life activity.

Each Section 504 committee shall be composed of a group of persons knowledgeable about the student, the meaning of the evaluation data, placement options, and the legal requirements regarding least restrictive environment and comparable facilities for students with disabilities.

a) Referrals

If a teacher, school counselor, administrator, or other Moody Early Childhood Center employee has reason to believe that a student may have a disability as defined by Section 504, Moody Early Childhood Center shall evaluate the student. A student may also be referred for evaluation by the student's parent.

b) Notice and Consent

Moody Early Childhood Center shall seek written parental consent prior to conducting a formal evaluation. Ordinary observations in the classroom or other school setting shall not require prior parental consent.

c) Evaluation and Placement

The results of an evaluation shall be considered before any action is taken to place a student with a disability or make a significant change in placement in an instructional program. The

Superintendent shall ensure that Moody Early Childhood Center’s procedures for tests and other evaluation materials comply with the minimum requirements of law. In interpreting evaluation data and when making decisions related to necessary services and supports, each Section 504 committee shall carefully consider and document information from a variety of sources in accordance with law.

d) Review and Reevaluation Procedure

To address the periodic reevaluation requirement of law, Moody Early Childhood Center shall adhere to the reevaluation timelines in the IDEA regulations.

A parent, teacher, or other Moody Early Childhood Center employee may request a review of a student’s services and supports at any time, but a formal reevaluation shall generally occur no more frequently than once a year.

e) Examining Records

A parent shall make any request to review his or her child’s education records to the campus principal or other identified custodian of records.

f) Right to Impartial Hearing

A parent shall be given written notice of the due process right to an impartial hearing if the parent has a concern or complaint about Moody Early Childhood Center’s actions regarding the identification, evaluation, or educational placement of a student with a disability. The impartial hearing shall be conducted by a person who is knowledgeable about Section 504 issues and who is not employed by Moody Early Childhood Center or related to a member of the Board in a degree that would be prohibited under the nepotism statute. The impartial hearing officer is not required to be an attorney. Moody Early Childhood Center and the parent shall be entitled to legal representation at the impartial hearing. *34 CFR 104.36.*

g) Records Retention

Records specific to identification, evaluation, and placement as these pertain to Section 504 shall be retained by Moody Early Childhood Center in accordance with law and Moody Early Childhood Center’s local records retention schedules.

SEC. 10. SERVICE ANIMALS (FEDERAL LAW REQUIREMENTS)

“Service animal” means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition, unless otherwise allowed by

Board Policy. The work or tasks performed by a service animal must be directly related to the handler's disability. *28 C.F.R. 35.104.*

a) Policies, Practices, or Procedures

Moody Early Childhood Center shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability, unless Moody Early Childhood Center can demonstrate that the service animal is out of control and the service animal's handler does not take effective action to control it or the service animal is not housebroken. *28 C.F.R. 35.136(a), (b).*

b) Access

Individuals with disabilities shall be permitted to be accompanied by their service animal in all areas of Moody Early Childhood Center facilities where members of the public, participants in services, programs or activities, or invitees, as relevant, are allowed to go. *28 C.F.R. 35.136(g).*

i. Exceptions

Moody Early Childhood Center may ask an individual with a disability to remove a service animal from the premises if:

1. The service animal is out of control and the service animal's handler does not take effective action to control it; or
2. The service animal is not housebroken.

28 C.F.R. 35.136(b).

Moody Early Childhood Center is not required to permit an individual to participate in or benefit from the services, programs, or activities of Moody Early Childhood Center when that individual poses a direct threat to the health or safety of others. *28 C.F.R. 35.139.*

If Moody Early Childhood Center properly excludes a service animal, it shall give the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises. *28 C.F.R. 35.136(c).*

ii. Animal Under Handler's Control

A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal

must be otherwise under the handler's control, whether by voice control, signals, or other effective means. *28 C.F.R. 35.136(d)*.

c) Inquiries

Moody Early Childhood Center shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. Moody Early Childhood Center may ask if the animal is required because of a disability and what work or task the animal has been trained to perform.

Moody Early Childhood Center shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.

Generally, Moody Early Childhood Center may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability). *28 C.F.R. 35.136(f)*.

d) Care or Supervision of Animal

Moody Early Childhood Center is not responsible for the care or supervision of a service animal. *28 C.F.R. 35.136(e)*.

e) Surcharges

Moody Early Childhood Center shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets.

An individual with a disability may be charged for damage caused by his or service animal if Moody Early Childhood Center normally charges individuals for the damage they cause. *28 C.F.R. 35.136(h)*.

f) Miniature Horses

Moody Early Childhood Center shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.

i. Assessment Factors

In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, Moody Early Childhood Center shall consider:

1. The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
2. Whether the handler has sufficient control of the miniature horse;
3. Whether the miniature horse is housebroken; and
4. Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

ii. Other Requirements

Provisions at 28 CFR 35.136(c) through (h) shall also apply to miniature horses.

28 C.F.R. 35.136(i).

SEC. 11. ASSISTANCE ANIMALS (STATE LAW REQUIREMENTS)

“Assistance animal” means a canine that is specially trained or equipped to help a person with a disability and that is used by a person with a disability. *Human Resources Code 121.002(1)*.

a) Assistance Animal Access

No person with a disability may be denied admittance to Moody Early Childhood Center because of the person's disability or may be denied the use of an assistance animal. Moody Early Childhood Center may not limit the use of Moody Early Childhood Center facilities to a designated class of persons and thereby prohibit the use of Moody Early Childhood Center facilities by persons with disabilities who, except for their use of assistance animals, would fall within the designated class. An assistance animal in training shall not be denied admittance to Moody Early Childhood Center when accompanied by an approved trainer. *Human Resources Code 121.003(c), (e), (i)*.

b) Harassment and Harm Prohibited

A person may not assault, harass, interfere with, kill, or injure in any way, or attempt to assault, harass, interfere with, kill, or injure in any way, an assistance animal. “Harass” means any conduct that is directed at an assistance animal that impedes or interferes with, or is intended to impede or interfere with, the animal's performance of its duties or places a person with a disability who is using an assistance animal, or a trainer who is training an assistance animal, in danger of injury.

A person is not entitled to make demands or inquiries relating to the qualifications or certifications of a service animal for purposes of admittance to a Moody Early Childhood Center facility except to determine the basic type of assistance provided by the service animal to a person with a disability. If a person's disability is not readily apparent, a staff member or administrator may inquire about whether the service animal is required because the person has a disability and what type of work or task the service animal is trained to perform. *Human Resources Code 121.002, .003(j)-(l).*

c) Transportation

Moody Early Childhood Center may not refuse to provide transportation to or from school and/or school related activities to a student solely because of the student's disability, nor may a student be required to pay a fee because of his or her use of an assistance animal. *Human Resources Code 121.003(b).*

d) Responsibilities of Students with Disabilities

A student with a disability who uses an assistance animal for assistance in travel is liable for any damages done to the premises or facilities by the animal.

A student with a disability who uses an assistance animal for assistance in travel or auditory awareness shall keep the animal properly harnessed or leashed, and a person who is injured by the animal because of the failure of a person with a disability to properly harness or leash the animal is entitled to maintain a cause of action for damages in a court of competent jurisdiction under the same law applicable to other causes brought for the redress of injuries caused by animals. *Human Resources Code 121.005.*

SEC. 1. NONDISCRIMINATION STATEMENT

Moody Early Childhood Center prohibits discrimination, including harassment, against any student on the basis of race, color, religion, sex, gender, national origin, disability, age, or any other basis prohibited by law. Moody Early Childhood Center further prohibits retaliation against anyone involved in the complaint process.

SEC. 2. GENERAL NON-DISCRIMINATION POLICY

a) Prohibited Conduct

In this policy, the term “prohibited conduct” includes discrimination, harassment, and/or retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

i. Prohibited Discrimination

Discrimination against a student is defined as conduct directed at a student on the basis of race, color, religion, sex, gender, national origin, disability, age, or on any other basis prohibited by law, that adversely affects the student.

ii. Prohibited Harassment

Prohibited harassment of a student is defined as physical, verbal, or nonverbal conduct based on the student’s race, color, religion, sex, gender, national origin, disability, age, or any other basis prohibited by law that is so severe, persistent, or pervasive that the conduct:

1. Affects a student’s ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student’s academic performance; or
3. Otherwise adversely affects the student’s educational opportunities.

Examples of prohibited harassment may include offensive or derogatory language directed at another person’s religious beliefs or practices, accent, skin color, or need for accommodation; threatening or intimidating conduct; offensive jokes; name calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other negative stereotypes; or other kinds of aggressive conduct such as theft or damage to property.

iii. Prohibited Gender-Based Harassment

Gender-based harassment includes physical, verbal, or nonverbal conduct based on a student's gender, the student's expression of characteristics perceived as stereotypical for the student's gender, or the student's failure to conform to stereotypical notions of femininity or masculinity. Gender-based harassment is considered prohibited harassment if the conduct is so severe, persistent, or pervasive that it:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

Examples of gender-based harassment, regardless of the student's or alleged harasser's actual or perceived gender, may include offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; threatening or intimidating conduct; or other kinds of aggressive conduct such as theft or damage to property.

iv. Prohibited Retaliation

Moody Early Childhood Center prohibits retaliation against a student alleged to have experienced discrimination or harassment or another student who, in good faith, makes a report, serves as a witness, or otherwise participates in an investigation.

Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.

b) False Claims

A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a Moody Early Childhood Center investigation regarding discrimination or harassment is subject to appropriate discipline.

c) Reporting Procedures (Non-Sexual Harassment)

Any student who believes that he or she has experienced prohibited conduct or believes that another student has experienced prohibited conduct should immediately report the alleged acts to a teacher, counselor, Principal, or the appropriate Compliance Coordinator designated by Moody Early Childhood Center.

MOODY EARLY CHILDHOOD CENTER BOARD POLICY MANUAL
POLICY GROUP 3 – STUDENTS
PROHIBITED DISCRIMINATION, RETALIATION,
AND HARASSMENT

PG-3.2

Any Moody Early Childhood Center employee who suspects or receives notice that a student or group of students has or may have experienced prohibited conduct shall immediately notify the appropriate Compliance Coordinator listed in this policy, and take any other steps required by this policy.

The procedures in this Section 2 will apply to all allegations of prohibited conduct other than allegations of harassment prohibited by Title IX. For allegations of sex-based harassment that, if proved, would meet the definition of sexual harassment under Title IX (including sexual harassment), see the procedures below at Section 3, Sexual Harassment Prohibited – Title IX Policy.

d) Definition of Compliance Coordinator

For the purposes of this policy, Compliance Coordinators are the Title IX Coordinator, the ADA/Section 504 coordinator, and the Executive Director or designee.

v. *Title IX Coordinator*

The Title IX Coordinator is responsible for coordinating Moody Early Childhood Center's efforts to comply with its responsibilities under Title IX with respect to discrimination based on sex, including sexual harassment. Moody Early Childhood Center has designated as the following individual as the Title IX Coordinator: Karin Miller, Executive Director, 1110 21st Street, Galveston, Texas 77550, (409) 761-6930, karin@moodychildhoodcenter.org.

vi. *ADA/Section 504 Coordinator*

Reports of discrimination based on disability may be directed to the ADA/Section 504 Coordinator. Moody Early Childhood Center designates the following person to coordinate its efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973, as amended: Karin Miller, Executive Director, 1110 21st Street, Galveston, Texas 77550, (409) 761-6930.

vii. *Coordinator for Purposes of Compliance with Other Nondiscrimination Laws*

The following person(s) have been designated to coordinate Moody Early Childhood Center's compliance with all other anti discrimination laws; Karin Miller, Executive Director, 1110 21st Street, Galveston, Texas 77550, (409) 761-6930.

e) Alternate Reporting Procedures

A student shall not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning prohibited conduct, including reports against the Title IX Coordinator or ADA/Section 504 Coordinator, may be directed to the Executive Director or designee. Reports concerning prohibited conduct by the Executive Director or designee may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.

f) Timely Reporting

Reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to promptly report may impair Moody Early Childhood Center's ability to investigate and address the prohibited conduct.

g) Notice to Parents

A Moody Early Childhood Center official or designee shall promptly notify the parents of any student alleged to have experienced prohibited conduct by a Moody Early Childhood Center employee or another adult.

h) Investigation

Moody Early Childhood Center may request, but shall not insist upon, a written report. If a report is made orally, the school official shall reduce the report to written form.

Upon receipt or notice of a report, the appropriate Compliance Coordinator shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the Compliance Coordinator shall immediately authorize or undertake an investigation, regardless of whether a criminal or regulatory investigation regarding the same or similar allegations is pending.

If appropriate, Moody Early Childhood Center shall promptly take interim action calculated to prevent prohibited conduct during the course of an investigation.

The investigation may be conducted by a Compliance Coordinator or designee, or by a third party designated by Moody Early Childhood Center, such as an attorney. When appropriate, the Principal shall be involved in or informed of the investigation.

The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

i) Concluding the Investigation

Absent extenuating circumstances, the investigation should be completed within ten school business days from the date of the report. If the investigator determines that additional time is needed to complete a thorough investigation of the complaint and/or issue a report, he or she shall inform the complainant in writing of the necessity to extend the time for investigating or responding and a specific date by which the report will be issued.

The investigator shall prepare a written report of the investigation. The report shall be filed with the Compliance Coordinator overseeing the investigation.

j) School Action

If the results of an investigation indicate that prohibited conduct occurred, Moody Early Childhood Center shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct.

Moody Early Childhood Center may take action based on the results of an investigation, even if the conduct did not rise to the level of prohibited or unlawful conduct.

k) Confidentiality

To the greatest extent possible, Moody Early Childhood Center shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.

l) Appeal

A student who is dissatisfied with the outcome of the investigation may appeal through Board Policy (Parent and Student Complaints and Grievances), beginning at the appropriate level. A student shall be informed of his or her right to file a complaint with the United States Department of Education Office for Civil Rights.

m) Records Retention

Retention of records shall be in accordance with the applicable schedule published by the Texas State Library and Archives Commission.

SEC. 3. SEXUAL HARASSMENT PROHIBITED – TITLE IX POLICY

a) Definitions for Title IX Terms

i. Actual Knowledge

“Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to Moody Early Childhood Center’s Title IX Coordinator or any Moody Early Childhood Center official who has authority to institute corrective measures on behalf of Moody Early Childhood Center, or to any employee of an elementary and secondary school. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of Moody Early Childhood Center with actual knowledge is the respondent (as that term is defined below). The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of Moody Early Childhood Center. “Notice” as used in this definition includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator. *34 C.F.R. 106.30(a)*.

ii. Complainant

“Complainant” means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. *34 C.F.R. 106.30(a)*.

iii. Consent

“Consent” is not currently defined by the Title IX regulations, nor do the regulations require Moody Early Childhood Center to adopt a particular definition of consent with respect to sexual assault. *34 C.F.R. 106.30(a)*.

iv. Deliberate Indifference Standard

If Moody Early Childhood Center has actual knowledge of sexual harassment in an education program or activity of Moody Early Childhood Center against a person in the United States, it must respond promptly in a manner that is not deliberately indifferent. Moody Early Childhood Center is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances. *34 C.F.R. 106.44*.

v. Education Program or Activity

For purposes of this Title IX policy, “education program or activity” includes locations, events, or circumstances over which Moody Early Childhood Center exercised substantial control over both the respondent and the context in which sexual harassment occurs. *34 C.F.R. 106.44*.

vi. Formal Complaint

“Formal complaint” means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that Moody Early Childhood Center investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in Moody Early Childhood Center’s education program or activity. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by email, by using the contact information for the Title IX Coordinator provided by Moody Early Childhood Center, and by any additional method designated by Moody Early Childhood Center. As used in this definition, the term “document filed by a complainant” means a document or electronic submission (such as by email or through an online portal provided for this purpose by Moody Early Childhood Center) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party to the Title IX formal complaint, and must comply with the requirements of the Title IX formal process, including the informal resolution process. *34 C.F.R. 106.30(a)*.

vii. Respondent

“Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. *34 C.F.R. 106.30(a)*.

viii. Sexual Harassment

“Sexual harassment” means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of Moody Early Childhood Center conditioning the provision of an aid, benefit, or service of Moody Early Childhood Center on an individual’s participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Moody Early Childhood Center’s education program or activity; or
3. “Sexual assault” as defined in [20 U.S.C. 1091\(f\)\(6\)\(A\)\(v\)](#); “dating violence” as defined in [34 U.S.C. 12291\(a\)\(10\)](#); “domestic violence” as defined in [34 U.S.C. 12291\(a\)\(8\)](#); or “stalking” as defined in [34 U.S.C. 12291\(a\)\(30\)](#).

34 C.F.R. 106.30(a).

ix. Supportive Measures

“Supportive measures” means nondisciplinary, nonpunitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has

been filed. Such measures are designed to restore or preserve equal access to Moody Early Childhood Center’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Moody Early Childhood Center’s educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Moody Early Childhood Center must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair Moody Early Childhood Center’s ability to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. *34 C.F.R. 106.30(a)*.

b) Requirement to Designate Title IX Coordinator

Moody Early Childhood Center must designate at least one employee as a Title IX Coordinator to coordinate Moody Early Childhood Center’s efforts to comply with its requirements under Title IX.

c) Notification of Title IX Policy

Moody Early Childhood Center must notify applicants for admission and employment, students, parents or legal guardians of students, and all professional organizations holding professional agreements with Moody Early Childhood Center of the name or title, office address, email address, and telephone number of the employee or employees designated as the Title IX Coordinator.

Moody Early Childhood Center must also notify the individuals noted above that Moody Early Childhood Center does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required under Title IX not to discriminate in such a manner. The notification must also state that the requirement not to discriminate in the education program or activity extends to admission and employment, and that inquiries about the application of Title IX to Moody Early Childhood Center may be referred to the designated Title IX Coordinator, to the assistant secretary for civil rights of the Department of Education, or both.

34 C.F.R. 106.8(a), (b)(1).

d) Handbook Information and Website Postings

Moody Early Childhood Center must prominently display the contact information required to be listed for the Title IX Coordinator and the nondiscrimination policy described in “Notification of

Title IX Policy,” above, on the Moody Early Childhood Center website, if any, and in the Employee Handbook and Student / Parent Handbook.

Moody Early Childhood Center may not use or distribute a publication stating that Moody Early Childhood Center treats applicants, students, or employees differently on the basis of sex except when such treatment is permitted by Title IX.

34 C.F.R. 106.8(b)(2).

e) Reporting Sex Discrimination / Sexual Harassment

Any person may report sex discrimination, including sexual harassment, whether or not the reporting person is the person alleged to be the victim of conduct that may constitute sex discrimination or sexual harassment. Reports may be made in person, by mail, by telephone, or by email through the contact information listed for Moody Early Childhood Center’s Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. Reports may be made at any time (including during nonbusiness hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator. *34 C.F.R. 106.8(a).*

f) Complaint Procedures

Moody Early Childhood Center must adopt and publish procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by Title IX, and a formal Title IX complaint process that complies with applicable federal regulations.

Moody Early Childhood Center must provide notice to the individuals identified in Sec. 3(b) above of the school’s procedures and Title IX formal complaint process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how Moody Early Childhood Center will respond.

The requirements of this provision apply only to sex discrimination occurring against a person in the United States.

34 C.F.R. 106.8(c)-(d).

g) Response by Title IX Coordinator

The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures, consider the complainant’s wishes with respect to supportive measures, , inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

i. Required Supportive Measures

Moody Early Childhood Center's response must treat complainants and respondents equitably by offering supportive measures and by following a grievance process that complies with the Title IX regulations (*see* Process for Formal Title IX Complaint, Sec. 3(h) below) before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.

34 C.F.R. 106.44(a).

ii. Response to Formal Complaint

In response to a formal complaint, Moody Early Childhood Center must follow a process that complies with the Title IX regulations (*see* Process for Formal Title IX Complaint, Sec. 3(h) below).

34 C.F.R. 106.44(b)(1).

iii. Emergency Removals

Moody Early Childhood Center is not precluded from removing a respondent from its education program or activity on an emergency basis, provided that Moody Early Childhood Center:

1. Undertakes an individualized safety and risk analysis;
2. Determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal; and
3. Provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

This may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

34 C.F.R. 106.44(c).

iv. Administrative Leave

Moody Early Childhood Center is not prohibited from placing a nonstudent employee respondent on administrative leave during the pendency of a Title IX formal complaint. This does not modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act. *34 C.F.R. 106.44(d).*

h) Process for Title IX Formal Complaint

For purposes of addressing formal complaints of sexual harassment, Moody Early Childhood Center’s process must comply with the requirements listed in this section. Any provisions, rules, or practices other than those required by the Title IX regulations or this policy that Moody Early Childhood Center adopts as part of its process for handling formal complaints of sexual harassment must apply equally to both parties. *34 C.F.R. 106.45(b)*.

Moody Early Childhood Center’s Title IX formal complaint process must:

1. Treat complainants and respondents equally by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a process that complies with the Title IX regulations before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. Remedies must be designed to restore or preserve equal access to Moody Early Childhood Center’s education program or activity. Such remedies may include the same individualized services described as supportive measures; however, remedies need not be nondisciplinary or nonpunitive and need not avoid burdening the respondent.
2. Require an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations may not be based on a person’s status as a complainant, respondent, or witness.
3. Require that any individual designated by Moody Early Childhood Center as a Title IX Coordinator, investigator, decision-maker, or any person designated by Moody Early Childhood Center to facilitate an informal resolution process, not to have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Moody Early Childhood Center must ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process receive training on the definition of sexual harassment, the scope of Moody Early Childhood Center’s education program or activity, how to conduct an investigation and Title IX formal complaint process (including hearings, appeals, and informal resolution processes, as applicable), and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Moody Early Childhood Center must ensure that decision-makers receive training on any technology to be used at a live hearing, if any, and on issues of relevance of questions and evidence, including when questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant. Moody Early Childhood Center must also ensure that investigators receive training on relevance to create an investigative report that fairly summarizes relevant evidence. Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

4. Include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Title IX formal complaint process.
5. Include reasonably prompt timeframes for concluding the grievance process, including reasonably prompt timeframes for filing and resolving appeals and informal resolution processes if Moody Early Childhood Center offers informal resolution processes, and a process that allows for the temporary delay of the Title IX formal complaint process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.
6. Describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that Moody Early Childhood Center may implement following any determination of responsibility.
7. State whether the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard or the clear and convincing evidence standard, apply the same standard of evidence for formal complaints against students as for formal complaints against employees, including faculty, and apply the same standard of evidence to all formal complaints of sexual harassment.
8. Include the procedures and permissible bases for the complainant and respondent to appeal.
9. Describe the range of supportive measures available to complainants and respondents.
10. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally-recognized privilege, unless the person holding such privilege has waived the privilege.

34 C.F.R. 106.45(b)(1).

i. Notice of Allegations

Upon receipt of a formal complaint, Moody Early Childhood Center must provide the following written notice to the parties who are known:

1. Notice of Moody Early Childhood Center's Title IX formal complaint process, including any informal resolution process.
2. Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include:
 - a. The identities of the parties involved in the incident, if known;
 - b. The conduct allegedly constituting sexual harassment; and
 - c. The date and location of the alleged incident, if known.

The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Title IX formal complaint process. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney and may inspect and review evidence. The written notice must inform the parties of any provision in Moody Early Childhood Center’s Code of Conduct that prohibits knowingly making false statements or knowingly submitting false information during the Title IX formal complaint process.

If, in the course of an investigation, Moody Early Childhood Center decides to investigate allegations about the complainant or respondent that are not included in the notice of allegations, Moody Early Childhood Center must provide notice of the additional allegations to the parties whose identities are known.

34 C.F.R. 106.45(b)(2).

ii. Dismissal of Formal Complaint

Moody Early Childhood Center must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment even if proved, did not occur in Moody Early Childhood Center’s education program or activity, or did not occur against a person in the United States, then Moody Early Childhood Center must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX; such a dismissal does not preclude action under another provision of Moody Early Childhood Center’s Code of Conduct.

Moody Early Childhood Center may dismiss the formal complaint or any allegations therein if, at any time during the investigation or hearing (if applicable):

1. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
2. The respondent is no longer enrolled or employed by Moody Early Childhood Center; or
3. Specific circumstances prevent Moody Early Childhood Center from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal of a formal complaint, Moody Early Childhood Center must promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties.

34 C.F.R. 106.45(b)(3).

iii. Consolidation of Formal Complaints

Moody Early Childhood Center may consolidate formal complaints as to allegations of sexual harassment against more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a Title IX formal complaint process involves more than one complainant or more than one respondent, references in this section to the singular “party,” “complainant,” or “respondent” include the plural, as applicable. *34 C.F.R. 106.45(b)(4)*.

iv. Investigating Formal Complaints

When investigating a formal complaint and throughout the Title IX formal complaint process, Moody Early Childhood Center must:

1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Moody Early Childhood Center and not on the parties, provided that Moody Early Childhood Center cannot access, consider, disclose, or otherwise use a party’s records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional’s or paraprofessional’s capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless Moody Early Childhood Center obtains that party’s voluntary, written consent to do so for a Title IX formal complaint. If a party is not an “eligible student,” as defined in the FERPA regulations, Moody Early Childhood Center must obtain the voluntary, written consent of a “parent,” as defined in the FERPA regulations.
2. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
3. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
4. Provide the parties with the same opportunities to have others present during any Title IX formal complaint proceeding, including the opportunity to be accompanied to any related or proceeding by the advisor of their choice, who may be, but is not required to be, and attorney, and not limit the choice or presence of the advisor for either the complainant or respondent in any meeting or Title IX formal complaint proceeding; however, Moody Early Childhood Center may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings (if applicable), investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

6. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which Moody Early Childhood Center does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, Moody Early Childhood Center must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least ten days to submit a written response, which the investigator will consider prior to completion of the investigative report. Moody Early Childhood Center must make all such evidence subject to the parties' inspection and review available at any hearing (if applicable) to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
7. Create an investigative report that fairly summarizes relevant evidence and, at least ten days prior to a hearing (if a hearing is required or otherwise provided) or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

34 C.F.R. 106.45(b)(5).

v. Hearings

Moody Early Childhood Center's Title IX formal complaint process may, but need not, provide for a hearing. With or without a hearing, after Moody Early Childhood Center has sent to the investigate report to the parties and before reaching a determination regarding responsibility, the decision-maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. With or without a hearing, questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant. *34 C.F.R. 106.45(b)(6)(ii).*

vi. Determination Regarding Responsibility

The decision-maker(s), who cannot be the same person(s) as the Title IX Coordinator or the investigator(s), must issue a written determination regarding responsibility. To reach this

determination, Moody Early Childhood Center must apply the same standard of evidence described at “Process for Title IX Formal Complaint, Sec. 3(h) above. The written determination must include:

1. Identification of the allegations potentially constituting sexual harassment.
2. A description of the procedural steps taken from receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held (if any).
3. Findings of fact supporting the determination.
4. Conclusions regarding the application of Moody Early Childhood Center’s Code of Conduct to the facts.
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions Moody Early Childhood Center imposes on the respondent, and whether remedies designed to restore or preserve equal access to Moody Early Childhood Center’s education program or activity will be provided by Moody Early Childhood Center to the complainant.
6. Moody Early Childhood Center’s procedures and permissible bases for the complainant and respondent to appeal.

Moody Early Childhood Center must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that Moody Early Childhood Center provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

34 C.F.R. 106.45(b)(7)(i)-(iii).

The Title IX Coordinator is responsible for effective implementation of any remedies identified in a determination regarding responsibility. *34 C.F.R. 106.45(b)(7)(iv).*

vii. Appeals

Moody Early Childhood Center must offer both parties an appeal from a determination regarding responsibility, and from Moody Early Childhood Center’s dismissal of a formal complaint or any allegations therein, on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination on responsibility or dismissal was made, that could affect the outcome of the matter; and

3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Moody Early Childhood Center may offer an appeal equally to both parties on additional bases.

As to all appeals, Moody Early Childhood Center must:

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
3. Ensure that the decision-maker(s) for the appeal complies with standards regarding conflict of interest and bias found in the Title IX regulations (as discussed in “Process for Formal Title IX Complaint,” Sec. 3(h) above);
4. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
5. Issue a written decision describing the result of the appeal and the rationale for the result; and
6. Provide the written decision simultaneously to both parties.

34 C.F.R. 106.45(b)(8).

i) Informal Resolution

Moody Early Childhood Center may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with Title IX. Similarly, Moody Early Childhood Center may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility, Moody Early Childhood Center may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication.

With respect to informal resolution, Moody Early Childhood Center must provide written notice to the parties disclosing:

1. The allegations;
2. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a

- resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
3. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Moody Early Childhood Center also must obtain the parties' voluntary, written consent to the informal resolution process.

Moody Early Childhood Center cannot offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

34 C.F.R. 106.45(b)(9).

j) Recordkeeping

Moody Early Childhood Center must maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to Moody Early Childhood Center's education program or activity;
2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and
4. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. Moody Early Childhood Center must make these training materials publicly available on its website or, if Moody Early Childhood Center does not maintain a website, Moody Early Childhood Center must make these materials available upon request for inspection by members of the public.

For each response required under "Response by Title IX Coordinator," Sec. 3(g) above, Moody Early Childhood Center must create and maintain for a period of seven years records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, Moody Early Childhood Center must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to Moody Early Childhood Center's education program or activity.

If Moody Early Childhood Center does not provide a complainant with supportive measures, Moody Early Childhood Center must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit Moody Early Childhood Center in the future from providing additional explanations or detailing additional measures taken.

34 C.F.R. 106.45(b)(10).

k) Retaliation Prohibited

Neither Moody Early Childhood Center nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX.

Intimidation, threats, coercion, or discrimination, including charges against an individual for Code of Conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

Complaints alleging retaliation may be filed according to the “Process for Formal Title IX Complaint,” Sec. 3(h) above.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited by Title IX.

Charging an individual with a Code of Conduct violation for making a materially false statement in bad faith in the course of a Title IX formal complaint proceeding does not constitute retaliation prohibited by Title IX provided, however, that a determination regarding responsibility alone is not sufficient to conclude that any party made a materially false statement in bad faith.

34 C.F.R. 106.71(a)-(b).

l) Confidentiality

Moody Early Childhood Center must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (“FERPA”) statute, 20 U.S.C. 1232g, or FERPA regulations, 34 C.F.R. part 99, or as required by law, or to carry out the purposes of the Title IX regulations at 34 C.F.R. part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. *34 C.F.R. 106.71(a).*

m) Relationship to General Non-Discrimination Policy

The formal complaint investigation and resolution process outlined above in Section 3 applies only to formal complaints alleging sexual harassment under Title IX, but not to complaints alleging sex discrimination that do not constitute sexual harassment. Complaints of sex discrimination that do not constitute sexual harassment may be filed with the Title IX Coordinator and will be handled under Moody Early Childhood Center’s general process for receiving reports of suspected discrimination and harassment, as outlined in Section 2 above.

SEC. 4. ACCESS TO POLICY

Information regarding this policy shall be distributed annually to Moody Early Childhood Center employees and distributed to parents and students through the Student Handbook. Copies of the policy shall be readily available at each campus and the Moody Early Childhood Center administrative offices.

SEC. 1. BULLYING PROHIBITED

Moody Early Childhood Center prohibits bullying, including cyberbullying, as defined by the Texas Education Code.

“Bullying” means a single significant act or a pattern of acts by one or more students directed at another student that exploits an imbalance of power and involves engaging in written or verbal expression, expression through electronic means, or physical conduct that satisfies the applicability requirements in Section 2 below, and that:

1. Has the effect or will have the effect of physically harming a student, damaging a student’s property, or placing a student in reasonable fear of harm to the student’s person or of damage to the student’s property;
2. Is sufficiently severe, persistent, and pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student;
3. Materially and substantially disrupts the educational process or the orderly operation of a classroom or Moody Early Childhood Center; or
4. Infringes on the rights of the victim at school.

Bullying also includes “cyberbullying,” which means bullying done through the use of any electronic communication device, including through the use of a cellular or other type of telephone, a computer, a camera, electronic mail, instant messaging, text messaging, a social media application, an Internet website, or any other Internet-based communication tool.

SEC. 2. APPLICABILITY OF POLICY

This policy applies to:

1. Bullying that occurs on or is delivered to school property or to the site of a school-sponsored or school-related activity on or off school property;
2. Bullying that occurs on a publicly or privately owned school bus or vehicle being used for transportation of students to or from school or a school-sponsored or school-related activity; and
3. Cyberbullying that occurs off school property or outside of a school-sponsored or school-related activity if the cyberbullying:
 - a. Interferes with a student’s educational opportunities or
 - b. Substantially disrupts the orderly operation of a classroom, Moody Early Childhood Center, or a school-sponsored or school-related activity.

Bullying can occur by physical contact or through electronic means and may include, by way of example, teasing, name-calling, inappropriate sexual comments, taunting, threatening to cause harm, leaving someone out on purpose, spreading rumors, embarrassing someone in public,

hitting, kicking, tripping, destruction of property, taking someone’s property, or making mean or rude hand gestures.

Upon publication by the Texas Education Agency, the Board will review and revise this policy to incorporate the minimum standards for anti-bullying policies under Education Code 37.0832(c-1).

SEC. 3. PREVENTING AND MEDIATING BULLYING INCIDENTS

Moody Early Childhood Center shall implement protocols and procedures concerning bullying that prevent and mediate bullying incidents between students that:

1. Interfere with a student’s educational opportunities; or
2. Substantially disrupt the orderly operation of a classroom, school, or school-sponsored or school-related activity.

SEC. 4. RETALIATION

Moody Early Childhood Center prohibits retaliation against any person, including a victim, witness, or another person who, in good faith, provides information concerning an incident of bullying.

Examples of retaliation include threats, rumor spreading, ostracism, assault, destruction of property, or unwarranted grade reductions / unjustified punishment by staff members.

SEC. 5. REPORTING PROCEDURES

Reports of bullying shall be made as soon as possible after the alleged act or knowledge of the alleged act. Reports should generally be made to the Principal or to a student’s teacher. Failure to immediately report may impair Moody Early Childhood Center’s ability to investigate and address the prohibited conduct.

Any Moody Early Childhood Center employee who suspects or receives notice that a student or group of students has or may have experienced bullying and/or cyberbullying shall immediately notify the Principal or Principal’s designee.

A report may be made orally or in writing. The Principal or Principal’s designee shall reduce any oral reports to written form. The Superintendent or designee shall develop a written form on which incidents of suspected bullying may be reported. The form shall allow for the anonymous submission of reports of suspected bullying.

a) False Claim

A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a Moody Early Childhood Center investigation regarding bullying and/or cyberbullying shall be subject to appropriate disciplinary action.

b) Notice to Parent or Guardian

The Principal or Principal's designee shall provide notice of an incident of bullying to:

1. A parent or guardian of the alleged victim on or before the third school day after the date the incident is reported; and
2. A parent or guardian of the alleged bully, within a reasonable amount of time after the incident.

Education Code 37.0832.

SEC. 6. INVESTIGATION OF REPORT

The Principal or Principal's designee shall determine whether the allegations in the report, if proven, would constitute prohibited discrimination and/or harassment, and if so proceed under Board Policy (Prohibited Discrimination, Harassment, and Retaliation) instead.

The Principal or Principal's designee shall conduct an appropriate investigation based on the allegations in the report, and shall take prompt interim action calculated to prevent bullying during the course of the investigation, if appropriate.

Absent extenuating circumstances, the investigation should be completed within ten Moody Early Childhood Center business days from the date of the initial report. However, the Principal or Principal's designee shall take additional time if necessary to complete a thorough investigation.

Following completion of the investigation, the Principal or Principal's designee will prepare a written decision regarding the complaint. If the results of an investigation indicate that bullying and/or cyberbullying occurred, Moody Early Childhood Center shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct in accordance with the Student Code of Conduct. Moody Early Childhood Center may take action based on the results of an investigation, even if Moody Early Childhood Center concludes that the conduct did not rise to the level of bullying and/or cyberbullying as defined in this policy.

Moody Early Childhood Center may not impose disciplinary measures on a student who, after an investigation, is found to be a victim of bullying on the basis of that student's use of reasonable self-defense in response to the bullying.

Discipline for bullying of a student with disabilities must comply with applicable requirements under federal law, including the Individuals with Disabilities Education Act.

a) Confidentiality

To the greatest extent possible, Moody Early Childhood Center shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation.

b) Appeal

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

SEC. 7. ASSISTANCE FROM PRINCIPAL

Any student who feels that he or she may be the victim of bullying should contact the Principal or Principal's designee to obtain assistance and intervention in response to the potential bullying.

The Principal or Principal's designee shall notify the victim, the student who engaged in bullying, and any student(s) who witnessed the bullying of available counseling options.

SEC. 8. ACCESS TO POLICY

Information regarding this policy shall be distributed annually to Moody Early Childhood Center employees and included in the Student Handbook. Copies of the policy shall be readily available at each campus and the Moody Early Childhood Center administrative offices.

SEC. 9. REPORT TO LOCAL LAW ENFORCEMENT

A Principal or the Principal's designee may make a report to local law enforcement officials if, after an investigation is completed, the Principal or Principal's designee has reasonable grounds to believe that a student engaged in conduct that constitutes an offense under Section 22.01 (Assault) or 42.07(a)(7) (Harassment) of the Texas Penal Code.

A Principal's designee may include any employee under the supervision of the Principal, other than a school counselor.

A report to local law enforcement officials may include the name and address of each student the Principal or Principal's designee believes may have participated in the conduct.

SEC. 1. NON-DISCRIMINATION IN ADMISSIONS

It is the policy of Moody Early Childhood Center to comply with all state and federal regulations regarding admission and not to discriminate during the admission and the lottery process on the basis of sex; national origin; ethnicity; religion; disability; academic, artistic, or athletic ability; or the district the child would otherwise attend. *Education Code 12.111(a)(5)*.

SEC. 2. GENERAL ELIGIBILITY FOR ADMISSION

Moody Early Childhood Center shall generally admit all persons who reside within Moody Early Childhood Center's geographic boundaries and for whom Moody Early Childhood Center operates a grade level sought and who, as of September 1 of any school year, are at least five years of age and under 21 years of age, or are at least 21 years of age and under 26 years of age and admitted by Moody Early Childhood Center to complete the requirements for a high school diploma, if the person meets any of the following conditions:

1. The applicant and either parent reside in Moody Early Childhood Center's geographic boundaries.
2. The applicant does not reside in Moody Early Childhood Center's geographic boundaries, but one of the parents resides within Moody Early Childhood Center's geographic boundaries and that parent is a joint managing conservator or the sole managing conservator or possessory conservator of the applicant.
3. The applicant and his or her guardian or other person having lawful control under a court order reside within Moody Early Childhood Center's geographic boundaries.
4. The applicant is under the age of 18 and has established a separate residence in Moody Early Childhood Center's geographic boundaries separate and apart from his or her parent, guardian, or other person having lawful control under an order of a court and has established that the applicant's presence in Moody Early Childhood Center is not for the primary purpose of participation in extracurricular activities. However, Moody Early Childhood Center is not required to admit an applicant under this provision if the applicant:
 - a. Has engaged in conduct or misbehavior within the preceding year that has resulted in removal to a disciplinary alternative education program or expulsion;
 - b. Has engaged in delinquent conduct or conduct in need of supervision and is on probation or other conditional release for that conduct; or
 - c. Has been convicted of a criminal offense and is on probation or other conditional release.
5. The applicant is homeless, regardless of the residence of the applicant, of either parent of the applicant, or of the applicant's guardian or other person having lawful control of the applicant.
6. The applicant is a foreign exchange student placed with a host family that resides in Moody Early Childhood Center's geographic boundaries by a nationally recognized

foreign exchange program, unless Moody Early Childhood Center has applied for and been granted a waiver by the Commissioner because:

- a. Admission would impose a financial or staffing hardship on Moody Early Childhood Center;
 - b. Admission would diminish Moody Early Childhood Center’s ability to provide high-quality education services for Moody Early Childhood Center’s domestic students; or
 - c. Admission would require domestic students to compete with foreign exchange students for educational resources.
7. The applicant resides at a residential facility, as defined in Education Code 5.001, located within Moody Early Childhood Center’s boundaries.
 8. The applicant resides in Moody Early Childhood Center’s boundaries and is 18 or older or the applicant’s disabilities of minority have been removed.
 9. The applicant does not reside in Moody Early Childhood Center’s boundaries, but a grandparent resides in Moody Early Childhood Center’s boundaries and provides a substantial amount of after-school care for the applicant as determined by the Board.
 10. The applicant and either parent of the applicant reside in a residence homestead that is located on a parcel of property any part of which is located in Moody Early Childhood Center’s geographic boundaries.

Education Code 25.001.

SEC. 3. APPLICATION REQUIREMENT

Moody Early Childhood Center requires applicants to submit a complete TEA Charter Student Admission Application form in order to be considered for admission. The Superintendent or designee shall set a beginning and closing date for the application window for each school year.

In order to be eligible for admission, the applicant or qualifying occupant specified by Education Code 25.001(b) must generally reside in the geographic boundaries set by the Moody Early Childhood Center charter, and satisfy any other admissions criteria specified in this policy. *See* Sec. 10 below.

SEC. 4. LOTTERY PROVISIONS

A “lottery” for purposes of this policy is a non-weighted, random selection process that determines the order of enrollment of student applicants. A lottery is to be conducted if the number of applicants exceeds the maximum enrollment. The lottery shall take place within five days after the closing date of the application period. The lottery will be conducted via lottery selection software. The principal or designee of each campus will conduct the computerized lottery, with supervision by at least one member of the sponsoring entity or his or her designee and a representative from the Moody Early Childhood Center Central Office. This ensures that

the admissions list and the waiting list are selected randomly. Results of the lottery shall be certified by a notary public.

SEC. 5. DEVELOPMENT OF WAITING LIST

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

SEC. 6. ADMISSION PROCESS OF RETURNING STUDENTS

Returning students (students who currently attend Moody Early Childhood Center and intend to return the next school year) are exempted from the lottery if they notify Moody Early Childhood Center of their intent to return for the next school year by the deadline designated by the Superintendent or designee for the then-current school year.

SEC. 7. SIBLINGS POLICY AND CHILDREN OF THE SCHOOL’S FOUNDERS AND EMPLOYEES

Siblings of returning students currently enrolled at a Moody Early Childhood Center campus and who timely notify Moody Early Childhood Center of their intent to return for the next school year are exempt from the lottery and, space permitting, are automatically enrolled. For this policy “sibling” shall mean a biological or legally adopted brother or sister residing in the same household as the applicant. Cousins, nieces, nephews and unrelated children sharing an address with the applicant are not siblings. Sibling enrollment is dependent on available space and does not guarantee enrollment of each listed sibling.

Children of Moody Early Childhood Center’s founders, teachers, and staff (so long as the total number of students allowed constitutes only a small percentage of the total enrollment) are exempt from lottery requirements, as permitted by federal guidance on the Charter Schools Program.

SEC. 8. APPLICATIONS SUBMITTED OUTSIDE THE DESIGNATED APPLICATION PERIOD

If a student applies to Moody Early Childhood Center outside of the designated application period, the student will be placed on a waiting list in the order of the date in which the application is received.

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

As authorized by Education Code § 12.111(a)(5)(A), Moody Early Childhood Center shall exclude from enrollment those students who have a documented history of a criminal offense, a

juvenile court adjudication, or other discipline problems under Subchapter A, Chapter 37 of the Education Code.

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

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

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

SEC. 11. VERIFICATION OF RESIDENCY AND IMMUNIZATION RECORDS FOR ENROLLMENT

Verification of residency and current immunization records are required for all students enrolling. Every student enrolling for the first time must present a signed statement from a physician or documentation of immunizations as required by the Texas Department of Health, no later than 30 days after enrolling. Students who submit an affidavit from a physician stating immunizations should not be administered for medical reasons, and students who submit an affidavit signed by the student’s parent or guardian declining immunizations for reasons of conscience, will be excepted from this requirement. The parent or guardian must furnish records that verify the identity of the student.

A person’s “residence,” for the purpose of this policy is the true, fixed and permanent place where the qualifying occupant ordinarily lives and sleeps, not less than four nights during the school week and to which, when temporarily absent from the residence, the occupant intends to return. The qualifying occupant specified by Education Code 25.001(b) must generally reside in the authorized geographic boundaries of Moody Early Childhood Center, as described in the Moody Early Childhood Center charter. A person who is homeless, as defined by 42 U.S.C. 11302, need not reside within the geographic boundaries of Moody Early Childhood Center. In order to verify residency for enrollment, acceptable evidence of residency includes:

- Current property tax bill with parent/guardian’s name and property address;
- Current rental or lease agreement with parent/guardian’s name, student name, and address, as well as manager or owner’s name and telephone number;
- Documents related to the purchase of the residence with the parent/guardian’s name and property address;
- Mail dated within 60 days before the application date from the following sources:
 - Social Security Administration;
 - A Texas State government agency;
 - Utility companies;
 - Credit card bill;
 - Financial institutions; including checking or savings;
 - Insurance companies;

- o State and Federal Revenue documents;
- o Paycheck information; and
- o Other sources or documents demonstrating residency.

If, at any time, a student's or qualifying occupant's residence is in question, Moody Early Childhood Center may ask for additional documents for verification. If the parent or legal guardian cannot provide evidence of residency because the parent or legal guardian is living with a relative or friend, a notarized statement by the relative or friend may be accepted by Moody Early Childhood Center with the following stipulation:

- Notarized statement must state that the parent or legal guardian and child are living with the relative/friend;
- Notarized statement must state the name of the relative or friend who is on the relative or friend's proof of residence;
- Notarized statement must state the same address of the relative or friend who is on the relative or friend's proof of residence;
- A copy of the relative or friend's proof of residence must be attached to the notarized statement (meeting the documentation criteria described above); and
- The notarized statement must be signed by the same name of relative or friend who is on the relative or friend's proof of residence.

A person whose parent or guardian is an active-duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, may establish residency by providing to Moody Early Childhood Center a copy of a military order requiring the parent's or guardian's transfer to a military installation in or adjacent to Moody Early Childhood Center's attendance zone. Such proof of residence shall be provided to Moody Early Childhood Center not later than the 10th day after the arrival date specified in the military order requiring the parent's or guardian's transfer. For purposes of this provision, the term "residence" includes residence in a military temporary lodging facility. *Education Code 25.001(c-1)-(c-2)*.

Subsequently, within 60 days, at least two current documents, Moody Early Childhood Center must be provided confirmation of residency from one or more of the following sources:

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

- State and Federal Revenue departments.

Moody Early Childhood Center may conduct home-visits, at any time, to confirm residency of applicants and enrolled students. Falsification of residence on an enrollment form is a criminal offense.

SEC. 12. ADULT STUDENT ATTENDANCE REQUIREMENT FOR CONTINUED ADMISSION

A person who voluntarily attends school after his or her 19th birthday shall attend school each school day for the entire period the program of instruction is offered. Moody Early Childhood Center may revoke, for the remainder of the school year, the enrollment of a person who has more than five absences in a semester that are not excused under Education Code 25.087, except that Moody Early Childhood Center may not revoke the enrollment on a day on which the person is physically present at school. A person whose enrollment is revoked under this subsection may be considered an unauthorized person on school grounds and a criminal trespass warning may be issued. Prior to revoking the person's enrollment, Moody Early Childhood Center shall issue a warning letter to the person, after the third unexcused absence, stating that the person's enrollment may be revoked for the remainder of the school year if the person has more than five unexcused absences in a semester. As an alternative to revoking enrollment, Moody Early Childhood Center may impose a behavior improvement plan. *Education Code 25.085(e)*.

SEC. 13. STUDENT RESIDENCY SEPARATE FROM PARENT/GUARDIAN

In order to protect the best interests of students enrolled, for purposes of students under the age of 18 who have established a residence apart from the person's parent, guardian, or other person having lawful control, such persons must establish their separate residency and verify it with documentation acceptable to Moody Early Childhood Center in the same manner as other students. However, a student under 18 and not living with parents or guardian, who has engaged in conduct in the preceding year that has resulted in a disciplinary removal, alternative placement or expulsion, or who has engaged in delinquent conduct or conduct in need of supervision and is on probation or other conditional release for that conduct, or has been convicted of a criminal offense and is on probation or other conditional release, shall not be admitted to Moody Early Childhood Center. The Superintendent or designee shall follow "Students with Documented Histories of a Criminal Offense and/or Misconduct," above, in making such determination.

SEC. 14. ADMISSION OF HOMELESS STUDENTS

a) Definitions

"Enroll" and "enrollment" include attending classes and participating fully in school activities.

"Homeless child" or "homeless children" means children or youths who lack a fixed, regular, and adequate nighttime residence and includes:

1. Children who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;
2. Children who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
3. Children who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
4. Migratory children living in circumstances described above. “Migratory child” means a child who made a qualifying move in the preceding 36 months (a) as a migratory agricultural worker or a migratory fisher; or (b) with, or to join, a parent or spouse who is a migratory agricultural worker or a migratory fisher.

“School of origin” means the school that the child attended when permanently housed or the school in which the child was last enrolled, including a preschool. When a child completes the final grade level served by the school of origin, the term “school of origin” shall include the designated receiving school at the next grade level for all feeder schools, as applicable.

“Unaccompanied youth” includes a homeless child or youth not in the physical custody of a parent or guardian.

b) General Requirements

As a condition of receiving federal funds under the McKinney-Vento Homeless Assistance Act, Moody Early Childhood Center shall, according to a homeless child’s best interest:

1. Continue the child’s education in the school of origin for the duration of homelessness;
 - a. If the child’s family becomes homeless between academic years or during an academic year; and
 - b. For the remainder of the academic year, if the child becomes permanently housed during an academic year; or
2. Enroll the child in any Moody Early Childhood Center school that non-homeless students who live in Moody Early Childhood Center’s geographic boundaries are eligible to attend.

42 U.S.C. 11432(g)(3)(A).

In determining the best interest of a homeless child, Moody Early Childhood Center shall:

1. Presume that keeping the child in the school of origin is in the child’s best interest, except when doing so is contrary to the request of the child’s parent or guardian, or in the case of an unaccompanied youth the youth;

2. Consider student-centered factors related to the child’s best interest, including factors related to the impact of mobility on achievement, education, health, and safety of homeless children, giving priority to the request of the child’s parent or guardian or the unaccompanied youth;
3. If, after conducting the best interest determination based on consideration of the presumption in item 1 above and the student-centered factors in item 2 above, Moody Early Childhood Center determines that it is not in the child’s best interest to attend the school of origin or the school requested by the parent or guardian or the unaccompanied youth, provide the parent, guardian, or unaccompanied youth with a written explanation of the reasons for its determination, in a manner and form understandable to such parent, guardian, or unaccompanied youth, including information regarding the right to appeal as set forth in Sec. 13-f below; and
4. In the case of an unaccompanied youth, ensure that the homeless liaison assists in placement and enrollment decisions under these provisions, gives priority to the views of such unaccompanied youth, and provides the notice to such youth of the right to appeal as set forth in Sec. 13-f below.

42 U.S.C. 11432(g)(3)(B).

Moody Early Childhood Center shall not stigmatize or segregate a student who is homeless.

c) Information from Parents

Moody Early Childhood Center may require the parent or guardian of a homeless child to submit contact information. *42 U.S.C. 11432(g)(3)(H).*

d) Enrollment

Moody Early Childhood Center shall immediately enroll a homeless child, depending on available seats, even if the child:

1. Is unable to produce records normally required for enrollment, such as previous academic record, records of immunization and other required health records, proof of residency, or other document; or
2. Has missed application or enrollment deadlines during any period of homelessness.

42 U.S.C. 11432(g)(3)(C).

e) Enrollment in School of Origin

In determining the best interest of the student for the purpose of continuing the student’s education in the school of origin, Moody Early Childhood Center shall presume that keeping the student in his or her school of origin is in the student’s best interest, except when doing so is

contrary to the request of the parent, guardian, or unaccompanied youth. Moody Early Childhood Center shall also consider the best interests of the student with regard to the impact of moving schools on the student’s achievement, education, health, and safety, including such relevant factors as:

1. Continuity of instruction;
2. Age and grade placement of the student;
3. Distance of the commute and its impact on the student’s education or special needs;
4. Personal safety of the student;
5. The student’s eligibility and need for any specialized services and supports, such as Section 504, special education and related services, or bilingual or English as a second language services;
6. Length of anticipated stay in a temporary shelter or other temporary location, if applicable;
7. Likely area of the family’s or youth’s future housing;
8. Time remaining in the school year; and
9. School placement of siblings.

Services, including transportation, that Moody Early Childhood Center is required to provide shall not be considered in determining the student’s school of attendance.

f) Disputes Concerning Enrollment

If a dispute arises over eligibility, or school selection or enrollment in a school:

1. The child shall be immediately enrolled in the school in which enrollment is sought, pending final resolution of the dispute, including all available appeals;
2. The parent or guardian of the child or an unaccompanied youth shall be provided with a written explanation of any decisions related to school selection or enrollment made by Moody Early Childhood Center, including the rights of the parent, guardian, or unaccompanied youth to appeal such decisions.
3. The parent, guardian, or unaccompanied youth shall be referred to the homeless liaison, who shall carry out the dispute resolution process as expeditiously as possible after receiving notice of the dispute; and
4. In the case of an unaccompanied youth, the liaison shall ensure that the youth is immediately enrolled in the school in which the youth seeks enrollment pending resolution of such dispute.

42 U.S.C. 11432(g)(3)(E).

g) Comparable Services

Moody Early Childhood Center shall provide a homeless child with services comparable to those offered to other student in the school in which the child is enrolled. *42 U.S.C. 11432(g)(4)*.

SEC. 15. ADMISSION OF MILITARY DEPENDENTS

a) Applicability

The provisions of Sec. 14 of this policy shall apply to the children of:

1. Active duty members of the uniformed services, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Sections 1209 and 1211;
2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and
3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.

Sec. 14 of this policy shall not apply to the children of:

1. Inactive members of the national guard and military reserves;
2. Members of the uniformed services now retired, except as provided above;
3. Veterans of the uniformed services, except as provided in this policy; and
4. Other U.S. Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

Education Code 162.002 Article III.

b) Definitions

“Active duty” means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Sections 1209 and 1211.

“Children of military families” means a school-aged child, enrolled in kindergarten through twelfth grade, in the household of an active duty member.

“Deployment” means the period one month prior to the service members’ departure from their home station on military orders through six months after return to their home station.

“Transition” means:

1. The formal and physical process of transferring from school to school; or
2. The period of time in which a student moves from one school in the sending state to another school in the receiving state.

“Uniformed services” means the Army, Navy, Air Force, Marine Corps, Coast Guard, as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

“Veteran” means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

Education Code 162.002 Article II.

c) Eligibility for Enrollment

Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law, shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

i. Continued Acceptance

A transitioning military child, placed in the care of a non-custodial parent or other person standing *in loco parentis* who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which the child was enrolled while residing with the custodial parent.

Education Code 162.002 art. VI, § A.

d) Education Records

i. Unofficial Records

In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parents a complete set of unofficial education records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records, Moody Early Childhood Center shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

ii. Official Records

Simultaneous with the enrollment and conditional placement of the student, Moody Early Childhood Center shall request the student’s official education record from the sending district.

Education Code 162.002 art. IV, §§ A–B.

e) Tuition

Moody Early Childhood Center is prohibited from charging tuition to:

1. A transitioning military child placed in the care of a non-custodial parent or other person standing *in loco parentis* who lives in a jurisdiction other than that of the custodial parent; or
2. A student who is domiciled in another state and resides in military housing that is located within Moody Early Childhood Center’s boundaries.

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

f) Grade-Level Placement

Students shall be allowed to continue their enrollment at grade level in Moody Early Childhood Center commensurate with their grade level, including kindergarten, from the sending district at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level shall be eligible for enrollment in the next highest grade level in Moody Early Childhood Center, regardless of age. A student transferring after the start of the school year shall enter Moody Early Childhood Center on his or her validated level from an accredited school in the sending state. *Education Code 162.002 art. IV, § D.*

g) Course Placement

When the student transfers before or during the school year, Moody Early Childhood Center shall initially honor placement of the student in educational courses based on the student’s enrollment in the sending district and/or educational assessments conducted at the sending district if the courses are offered. Course placement includes but is not limited to honors, international baccalaureate, advanced placement, vocational, technical, and career pathways courses. Continuing the student’s academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude Moody Early Childhood Center from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s). *Education Code 162.002 art. V, § A.*

h) Educational Program Placement

Moody Early Childhood Center shall initially honor placement of the student in educational programs based on current educational assessments conducted at the sending district or participation/placement in like programs in the sending state. Such programs include, but are not limited to:

1. Gifted and talented programs; and
2. English as a second language (ESL).

This does not preclude Moody Early Childhood Center from performing subsequent evaluations to ensure appropriate placement of the student. *Education Code 162.002 art. V, § B.*

i) Waivers

Moody Early Childhood Center administrative officials shall have flexibility in waiving course/program prerequisites, or other preconditions for placement in courses/programs offered by Moody Early Childhood Center. *Education Code 162.002 art. IV, §§ A–B, D.*

SEC. 16. DISCREPANCIES IN STUDENT NAME

The Superintendent or designee shall notify the Missing Children and Missing Persons Information Clearinghouse if a child is enrolled under a name other than the name that appears on the identifying documents. If a student’s records have not been received within 30 days of a request, the Superintendent or designee shall notify local law enforcement for a determination of whether the child has been reported as missing. *Education Code 25.002(b).*

SEC. 17. FOOD ALLERGY INFORMATION

The parent of each student enrolled with Moody Early Childhood Center must complete a form provided by Moody Early Childhood Center that discloses (1) whether the child has a food allergy or a severe food allergy that should be disclosed to Moody Early Childhood Center to enable Moody Early Childhood Center to take any necessary precautions regarding the child’s safety and (2) specifies the food(s) to which the child is allergic and the nature of the allergic reaction.

For purposes of this requirement, the term “severe food allergy” means a dangerous or life-threatening reaction of the human body to a food-borne allergen introduced by inhalation, ingestion, or skin contact that requires immediate medical attention.

Moody Early Childhood Center may also require information from a child’s physician if the child has food allergies.

Food allergy information forms will be maintained in the child’s student records, and shall remain confidential. Information provided on food allergy information forms may be disclosed to teachers, school counselors, school nurses, and other appropriate school personnel only to the extent consistent with Board policy and as permissible under the Family Educational Rights and Privacy Act of 1974 (“FERPA”).

Education Code 25.0022(a)-(c).

SEC. 1. COMPULSORY ATTENDANCE

A student who is at least six years of age, or who is younger than six and has previously been enrolled in first grade, and who has not yet reached his or her 19th birthday shall attend school, as well as any applicable accelerated instruction program, extended year program, or tutorial session, unless the student is otherwise excused from attendance or legally exempt. On enrollment in kindergarten or prekindergarten, a student shall attend school. *Education Code 25.085(a)-(c)*.

SEC. 2. STUDENTS 19 AND OVER: VOLUNTARY ENROLLMENT

A student who voluntarily enrolls in school or voluntarily attends school after the student’s 19th birthday shall attend school each school day for the entire period the program of instruction is offered. If a student 19 or older has more than five unexcused absences in a semester, Moody Early Childhood Center may revoke the student’s enrollment, except that Moody Early Childhood Center may not revoke the enrollment on a day on which the student is physically present at school. The student’s presence on school property thereafter is unauthorized and may be considered trespassing.

Prior to revoking the student’s enrollment, Moody Early Childhood Center shall issue a warning letter to the student, after the student’s third unexcused absence, stating that the student’s enrollment may be revoked for the remainder of the school year if the student has more than five unexcused absences in a semester. As an alternative to revoking enrollment, Moody Early Childhood Center may impose a behavior improvement plan described by Education Code 29.0915.

Education Code 25.085(e), (g).

SEC. 3. ACCELERATED INSTRUCTION

Unless exempted by law, a student must also attend:

1. An accelerated reading instruction program to which the student has been assigned under Education Code 28.006(g); or
2. An accelerated instruction program to which the student is assigned under Education Code 28.0211.

SEC. 4. EXCUSED ABSENCES

Moody Early Childhood Center will excuse a student from attending school for the following purposes:

- a) Observing Religious Holy Days*

A student who is observing holy days is allowed up to one day of excused travel for traveling to the site where the student will observe the holy days and up to one day of excused travel for traveling from that site.

b) Court Appearances

A student who is attending a required court appearance is allowed up to one day of excused travel for traveling to the site where the student will attend the required court appearance and up to one day of excused travel for traveling from that site.

c) Citizenship Paperwork

A student who is appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship is allowed up to one day of excused travel for traveling to the site where the student will complete the paperwork and up to one day of excused travel for traveling from that site.

d) Citizenship Proceedings

A student who is taking part in a United States naturalization oath ceremony is allowed up to one day of excused travel for traveling to the site where the student will take part in the ceremony and up to one day of excused travel for traveling from that site.

e) Election Clerks

A student who is serving as an election clerk is allowed up to one day of excused travel for traveling to the site where the student will serve as an election clerk and up to one day of excused travel for traveling from that site.

f) Children in Conservatorship of DFPS

Student absence will be excused for a student who is in the conservatorship of the Department of Family and Protective Services who misses school:

1. To participate in an activity ordered by a court under Family Code Chapter 262 or 263, provided that it is not practicable to schedule the participation outside of school hours; or
2. To attend a mental health or therapy appointment or family visitation as ordered by a court under Family Code Chapter 262 or 263.

g) Health Care Appointments

Temporary absence resulting from an appointment with a health-care professional will be excused if the student commences classes or returns to school on the same day of the appointment. The appointment should be supported by a document such as a note from the health-care professional. “Temporary absence” includes the temporary absence of a student diagnosed with autism spectrum disorder on the day of the student’s appointment with a health-care practitioner to receive a generally recognized service for persons with autism spectrum disorder, including applied behavior analysis, speech therapy, and occupational therapy.

h) Serious or Life-Threatening Illness or Related Treatment

An absence will be excused if it is resulting from a serious or life-threatening illness or related treatment that makes the student’s attendance infeasible. The student or the student’s parent or guardian must provide a certification from a physician licensed to practice medicine in this state specifying the student’s illness and the anticipated period of the student’s absence relating to the illness or related treatment.

i) Taps at Military Funeral

Moody Early Childhood Center may excuse a student in grades 6–12 for the purpose of sounding “Taps” at a military honors funeral held in Texas for a deceased veteran.

j) Higher Education Visits

Moody Early Childhood Center may excuse a student from attending school to visit an institution of higher education accredited by a generally recognized accrediting organization during the student’s junior and senior year for the purposes of determining the student’s interest in attending the institution of higher learning. Moody Early Childhood Center may not excuse for this purpose more than two days during the student’s junior year and two days during the student’s senior year. The student must obtain approval from the Principal or designee to visit an institution of higher education, follow campus procedures to verify such a visit, and make up any work missed.

k) Military Dependents

Moody Early Childhood Center shall excuse a student whose parent, stepparent, or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or immediately returned from continuous deployment of at least four months outside the locality where the parent, stepparent, or guardian regularly resides, to visit with the student’s parent, stepparent, or guardian. Moody Early Childhood Center may not excuse a student under this provision more than five days in a school year. An excused absence for this reason must be taken not earlier than the 60th day before the date of deployment or not later than the 30th day after the date of return from deployment.

l) Military Enlistment

Moody Early Childhood Center shall excuse a student who is 17 years of age or older from attending school to pursue enlistment in a branch of the armed services of the United States or the Texas National Guard. Moody Early Childhood Center may not excuse a student for this purpose for more than four days of school during the period the student is enrolled in high school. Moody Early Childhood Center shall verify the student's activities are related to pursuing enlistment in a branch of the armed services or the National Guard.

m) Obtaining a Driver's License or Learner License

Moody Early Childhood Center may excuse a student who is 15 years of age or older from attending school to visit a driver's license office to obtain a driver's license or learner license, provided that the student is not excused for more than one day of school during the period the student is enrolled in high school for such purpose. Moody Early Childhood Center shall verify the student's visit to the driver's license office in accordance with procedures adopted by Moody Early Childhood Center.

n) Other Excused Absences.

A person required to attend school may be excused for temporary absence resulting from any cause acceptable to the teacher, Principal, or Superintendent.

Education Code 25.087.

SEC. 5. PARENTAL CONSENT FOR ABSENCE

A student absent from school for any portion of a school day shall provide a note to the campus office upon return, signed by the parent or medical provider (see below) that describes the reason for the absence. A note signed by the student, even with the parent's permission, will not be accepted unless the student is 18 or older.

SEC. 6. FAILURE TO PROVIDE NOTE

Upon return to school, a student who has been absent and who fails within three days of the student's absence to bring a statement from a parent or medical provider verifying the illness or condition that caused the student's absence, the absence will be unexcused.

SEC. 7. MAKE-UP WORK

The student shall be allowed a reasonable time to make up schoolwork missed on the days described above. If the student satisfactorily completes the work, the days of absence shall be

counted as days of compulsory attendance. The student shall not be penalized for the absence. The Superintendent or designee shall prepare procedures for acceptance of make-up work.

SEC. 8. NOTICES TO PARENTS

Moody Early Childhood Center shall notify a student’s parents in writing at the beginning of the school year that, if a student is absent from school on ten or more days or parts of days within a six-month period in the same school year, the student’s parent is subject to prosecution under Education Code 25.093; and the student is subject to referral to a truancy court for truant conduct under Family Code 65.003(a). *Education Code 25.095(a)*.

SEC. 9. NOTICE OF ABSENCES

Moody Early Childhood Center shall notify a student’s parent if the student has been absent from school, without excuse under Education Code 25.087, on three days or parts of days within a four-week period. The notice must:

1. Inform the parent that:
 - a. It is the parent’s duty to monitor the student’s school attendance and require the student to attend school,
 - b. The student is subject to truancy prevention measures under Education Code 25.0915; and
2. Request a conference between school officials and the parent to discuss the absences.

Education Code 25.095(b).

SEC. 10. FAILURE TO COMPLY WITH COMPULSORY ATTENDANCE

Moody Early Childhood Center employees must investigate and report violations of the state compulsory attendance law. A student absent without permission from school; from any class; from required special programs, such as additional special instruction, termed “accelerated instruction” by the state; or from required tutorials will be considered in violation of the compulsory attendance law and subject to disciplinary action.

If a student fails to attend school without excuse on ten or more days or parts of days within a six-month period in the same school year, Moody Early Childhood Center shall, within ten school days of the student’s tenth absence, refer the student to a truancy court for truant conduct under Family Code 65.003(a). Moody Early Childhood Center may also file a complaint against the student’s parent in a county, justice, or municipal court for an offense under Education Code 25.093 if Moody Early Childhood Center provides evidence of the parent’s criminal negligence.

Education Code 25.0951.

Moody Early Childhood Center may delay a referral of a student for truant conduct, or may choose to not refer a student for truant conduct, if Moody Early Childhood Center is applying truancy prevention measures to the student under Education Code 25.0915 and determines that the truancy prevention measures are succeeding and it is in the best interest of the student that a referral be delayed or not be made. *Education Code 25.0951(d)*.

Moody Early Childhood Center shall initiate truancy prevention measures under Education Code 25.0915 on a student, if the student fails to attend school without excuse on three or more days or parts of days within a four-week period, but does not fail to attend school for the time specified above. *Education Code 25.0915(a-4)*.

a) *Truancy Prevention Measures*

In an effort to prevent truancy and to reduce the need for referrals to truancy court, Moody Early Childhood Center will take one or more of the following truancy prevention measures applicable to students identified as potential truants, designed to address student conduct related to truancy in the school setting before the student engages in truancy:

1. Impose a behavior improvement plan on the student signed by a Moody Early Childhood Center employee, that Moody Early Childhood Center has made a good faith effort to have signed by the student and the student's parent or guardian, and that includes:
 - a. Specific description of the behavior that is required or prohibited for the student;
 - b. The period for which the plan will be effective, not to exceed 45 school days after the date the contract; or
 - c. The penalties for additional absences, including additional disciplinary action or the referral of the student to a truancy court; or
2. Impose school-based community service; or
3. Refer the student to counseling, mediation, mentoring, a teen court program, community-based services, or other in-school or out-of-school services aimed at addressing the student's truancy.

Education Code 25.0915(a-1).

Moody Early Childhood Center shall offer additional counseling to a student and may not refer the student to truancy court if the school determines that the student's truancy is the result of:

1. Pregnancy;
2. Being in the state foster program;
3. Homelessness;
4. Severe or life-threatening illness or related treatment; or
5. Being the principal income earner for the student's family.

Education Code 25.0915(a-3).

b) Filing Requirements

Each referral to a truancy court must include a statement from Moody Early Childhood Center certifying that Moody Early Childhood Center applied truancy prevention measures to the student and that the truancy prevention measures failed to meaningfully address the student's school attendance. The referral must also specify whether the student is eligible for or receives special education services. *Education Code 25.0915(b)*.

SEC. 11. PARENTAL CONSENT FOR A STUDENT TO LEAVE CAMPUS

Moody Early Childhood Center operates a closed campus. Students are not allowed to leave for any reason during the school day without properly checking out in accordance with campus rules and procedures.

SEC. 1. RECORDS

Moody Early Childhood Center shall maintain records to reflect the average daily attendance for the allocation of Foundation School Program (“FSP”) and other funds allocated by the Texas Education Agency (“TEA”). Moody Early Childhood Center must maintain records and make reports concerning student attendance and participation in special programs as required by the Commissioner of Education (“Commissioner”). The Superintendent, Principals, and teachers are responsible to the Board and the state to maintain accurate, current attendance records. *19 TAC 129.21(a), (e).*

Moody Early Childhood Center shall use the student attendance accounting standards established by the Commissioner to maintain records and make reports on student attendance and student participation in special programs. The official standards are described in TEA’s *Student Attendance Accounting Handbook* (“SAAH”). *19 TAC 129.1025.*

The Superintendent is responsible for the safekeeping of all attendance records and reports. The Superintendent may determine whether the properly certified attendance records or reports for the school year are to be stored in the central office, on the respective school campuses, or at another secure location. Regardless of where such records are filed or stored, they must be readily available for audit by the TEA. *19 TAC 129.21(d).*

SEC. 2. MINIMUM ENROLLMENT

A student must be enrolled for at least two hours of instruction to be considered in membership for one half day, and for at least four hours of instruction to be considered in membership for one full day. *19 TAC 129.21(g).*

a) Full-Day Students

Students enrolled on a full-day basis may earn one full day of attendance each school day. *19 TAC 129.21(h)(1).*

b) Half-Day Students

Students enrolled on a half-day basis may earn only one half day attendance each school day. Attendance is determined for these pupils by recording absences in a period during the half day they are scheduled to be present. *19 TAC 129.21(h)(1).*

c) Alternative Attendance Accounting Program

Students who are enrolled in and participating in an alternative attendance accounting program approved by the Commissioner shall earn attendance according to the statutory and rule provisions applicable to that program. *19 TAC 129.21(h)(2).*

SEC. 3. ATTENDANCE FOR STATE FUNDING PURPOSES

Attendance for all grades shall be determined by the absences recorded in the second or fifth period of the day, unless Moody Early Childhood Center has obtained permission from the TEA for an alternate period to record absences, unless the Board adopts a policy for recording absences in an alternate period or hour, or unless the students for which attendance is being taken are enrolled in and participating in a Commissioner-approved alternative attendance accounting program.

The established period in which absences are recorded may not be changed during the school year.

Students absent during the daily period selected by Moody Early Childhood Center for taking attendance shall be counted absent for the entire day, unless the students are enrolled in and participating in a Commissioner-approved alternative attendance accounting program. Students present at the time attendance is taken shall be counted present for the entire day, unless the students are enrolled in and participating in a Commissioner-approved alternative attendance accounting program.

19 TAC 129.21(h).

a) *Funding for Off-Campus Programs*

Funding eligibility for a student participating in an off-campus program will include time instructed in the off-campus program. A campus may choose an alternate attendance-taking time for a group of students that is scheduled to be off-campus during the regular attendance-taking time. The alternate attendance-taking time will be in effect for the period of days or weeks for which the group is scheduled to be off-campus during the regular attendance-taking time (for example, for the semester or for the duration of employment). This alternate attendance-taking time may not be changed once it is selected for a particular group of students. If attendance is taken at an off-campus location, Moody Early Childhood Center must ensure that attendance is taken in accordance with the attendance accounting handbook adopted under 19 TAC 1025..

For Moody Early Childhood Center to receive FSP funding for a student participating in an off-campus program, Moody Early Childhood Center must have documentation of an agreement between Moody Early Childhood Center and the college. *19 TAC 129.1031(c), (d).*

SEC. 4. EXCEPTIONS

A student not actually on campus when attendance is taken may be considered in attendance for FSP purposes if:

a) Board-Approved Activities

The student is participating in a Board-approved activity under the direction of a member of Moody Early Childhood Center’s professional staff, or an adjunct staff member who has a bachelor’s degree and is eligible for participation in Teacher Retirement System of Texas (“TRS”).

b) Mentorships

The student is participating in a mentorship approved by Moody Early Childhood Center personnel to serve as one or more of the advanced measures needed to complete the Advanced/Distinguished Achievement Program.

c) Excused Absences

The student is absent for one of the purposes listed in “Excused Absences for Compulsory Attendance Determinations” in Board Policy (Compulsory Attendance).

d) Other Absences

The student’s absence is permitted by other conditions related to off-campus instruction described in the TEA’s SAAH.

19 TAC 129.21.

SEC. 5. PARENT CONSENT TO LEAVE CAMPUS

A student absent from school for any portion of a school day shall provide a note that describes the reason for the absence. The note shall be signed by the student’s parent or, if the student is 18 or older or is an emancipated minor, by the student.

SEC. 6. REPORTS TO TEA

In accordance with Commissioner rule, Moody Early Childhood Center will report the following through the Public Education Information Management System (PEIMS) information disaggregated by campus and grade regarding:

1. The number of students subject to compulsory attendance under TEC 25.085, who are not exempted from attendance under TEC 25.086, and fail to attend school without excuse on 10 or more days or parts of days within a six-month period in the same school year;
2. The number of students for whom Moody Early Childhood Center initiates a truancy prevention measure under TEC 25.0915(a-4); and

3. The number of parents of students against whom an attendance officer or other appropriate school official has filed a complaint of parent contributing to nonattendance under TEC 25.093.

Education Code 42.006(a-6).

SEC. 1. ATTENDANCE OFFICER

The Board has designated Campus Principals to serve as Moody Early Childhood Center's Attendance Officer(s).

SEC. 2. POWERS AND DUTIES

The Attendance Officer(s) have the following powers and duties with respect to enforcement of compulsory school attendance requirements:

1. To investigate each case of a violation of the compulsory school attendance requirements referred to the Attendance Officer(s);
2. To enforce compulsory school attendance requirements by:
 - a. Applying truancy prevention measures adopted under Education Code 25.0915 to a student; and
 - b. If the truancy prevention measures fail to meaningfully address the student's conduct:
 - i. Referring a student to a truancy court if the student has unexcused absences for the amount of time specified under Family Code 65.003(a); and
 - ii. Filing a complaint in a county, justice, or municipal court against a parent who violates Education Code 25.093;
3. To monitor school attendance compliance by each student investigated by the Attendance Officer(s);
4. To maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the Board, or the Commissioner of Education, to provide a record to the individual or entity requesting the record;
5. To make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that the Attendance Officer(s) may not enter a residence without permission of the parent of the student or the owner or tenant of the residence; and
6. At the request of a parent, to escort a student from any location to a school campus to ensure the student's compliance with compulsory school attendance requirements.

Education Code 25.091(a), (b-1).

SEC. 1. ATTENDANCE FOR CREDIT

Except as provided below and in accordance with Moody Early Childhood Center’s Charter, a student shall not be given credit or a final grade for a class unless the student is in attendance 90% of the days the class is offered. This restriction does not affect a student’s right to excused absences to observe religious holy days.

This attendance requirement includes both excused and unexcused absences. A student who attends fewer than 90% percent of the days the class is offered may be referred to the Attendance Review Committee (“Committee”) to determine whether the absences were due to extenuating circumstances and how the student may regain credit or earn a final grade.

SEC. 2. ATTENDANCE REVIEW COMMITTEE

The Board shall appoint one or more Committees to hear petitions for class credit by students who have not met the 90% rule to determine whether there are extenuating circumstances for the absences and how the student can regain credit, if appropriate.

a) Extenuating Circumstances

In determining whether there were extenuating circumstances for the absences, the Committee will use the following guidelines:

1. All absences will be considered in determining whether a student has attended the required percentage of days.
2. If makeup work is completed, absences for the reasons listed at Board Policy (Compulsory Attendance) will be considered days of attendance for this purpose.
3. A transfer or migrant student begins to accumulate absences only after he or she has enrolled in Moody Early Childhood Center.
4. For a student transferring into Moody Early Childhood Center after school begins, only those absences after enrollment will be considered.
5. In reaching a decision about the student’s absences, the Committee will attempt to ensure that it is in the best interest of the student.
6. The Committee will consider the acceptability and authenticity of documented reasons for the student’s absences.
7. The Committee will consider whether the absences were for reasons over which the student or the student’s parent could exercise any control.
8. The Committee will consider the extent to which the student has completed all assignments, mastered the essential knowledge and skills, and maintained passing grades in the course or subject.
9. The student, parent will be given an opportunity to present any information to the Committee about the absences and to talk about ways to earn or regain credit.

b) Conditions for Awarding Credit or a Final Grade

The Committee may utilize any of the following conditions for regaining credit or earning a final grade for students with excessive absences:

1. Attending summer school.
2. Attending tutorial sessions, including Saturday school or before- or after-school programs.
3. Completing additional assignments, as determined by the Committee or teacher.
4. Maintaining attendance standards for the remainder of the semester.
5. Taking an examination to earn credit.

A student must earn a passing grade in order to receive credit or earn a passing grade.

c) Appeal

The student or parent may appeal the Committee's decision to the Board by filing a written request with the Superintendent in accordance with Board Policy (Parent and Student Complaints and Grievances).

SEC. 3. WITHDRAWAL FOR NONATTENDANCE

Moody Early Childhood Center may initiate withdrawal of a student under the age of 19 for nonattendance under the following conditions:

1. The student has been absent on ten or more consecutive school days; and
2. Repeated efforts by the attendance officer and/or Principal to locate the student have been unsuccessful.

Additionally, Moody Early Childhood Center may revoke the enrollment of a student 19 years of age or older who has more than five unexcused absences in one semester.

SEC. 1. ALCOHOL

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

The Board of Directors may cooperate with local law enforcement officials and the Texas Alcoholic Beverage Commission in attempting to provide an alcohol-free environment and in enforcing the alcohol-free zone provisions in the Alcoholic Beverage Code.

Education Code 38.007(b).

SEC. 2. DRUG-FREE ZONES

In order to provide a safe drug-free environment for students and employees, Moody Early Childhood Center prohibits drugs and/or controlled substances (as defined in Health and Safety Code, Chapter 481) on Moody Early Childhood Center property at any time, and at all school-sanctioned activities occurring on or off Moody Early Childhood Center property.

A person commits an offense if the person possesses an intoxicating beverage for consumption, sale, or distribution while:

1. on the grounds or in a building of a public school; or
2. entering or inside any enclosure, field, or stadium where an athletic event sponsored or participated in by a public school of this state is being held.

Education Code 37.122.

SEC. 3. ENFORCEMENT

Moody Early Childhood Center personnel shall enforce this policy on Moody Early Childhood Center property. Any student found in violation of these Policy shall be subject to disciplinary action in accordance with the Student Code of Conduct.

Moody Early Childhood Center prohibits students from smoking, using, or possessing e-cigarettes, vapor products, and tobacco products at school-related or school-sanctioned activities on or off Moody Early Childhood Center property.

E-Cigarette or electronic cigarette means an electronic cigarette or any other device that simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device. The term also includes any device that is manufactured, distributed, or sold as an e-cigarette, e-cigar, or e-pipe; a dab pen; a vapor product; or any other similar device under another product name or description. Also included is any component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device. The term does not include a prescription medical device unrelated to the cessation of smoking.

The term includes:

1. A device regardless of whether it is manufactured, distributed, or sold as an e-cigarette, e-cigar, or e-pipe or under another product name or description; and
2. A component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device.

Health and Safety Code 161.081(1-a).

Vapor product means electronic cigarettes (e-cigarettes) or any other device that uses a mechanical heating element, battery, or electronic circuit to deliver vapor that may include nicotine to the individual inhaling from the device, or any substance used to fill or refill the device.

Moody Early Childhood Center personnel shall enforce this policy on Moody Early Childhood Center property. Any student found in violation of this Policy shall be subject to disciplinary action in accordance with the Student Code of Conduct. *Education Code 38.006.*

SEC. 1. ANTIVICTIMIZATION PROGRAM

Moody Early Childhood Center shall provide child abuse antivictimization programs in elementary and secondary schools. *Education Code 38.004.*

SEC. 2. DUTY TO REPORT

a) Definition of Abuse

“Abuse” includes the following acts or omissions by a person:

- (A) Mental or emotional injury to a child that results in an observable and material impairment in the child’s growth, development, or psychological functioning;
- (B) Causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning;
- (C) Physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm;
- (D) Failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;
- (E) Sexual conduct harmful to a child’s mental, emotional, or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of young child or children under Section 21.02, Penal Code, indecency with a child under Section 21.11, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;
- (F) Failure to make a reasonable effort to prevent sexual conduct harmful to a child;
- (G) Compelling or encouraging the child to engage in sexual conduct as defined by Section 43.01, Penal Code, including compelling or encouraging the child in a manner that constitutes an offense of trafficking of persons under Section 20A.02(a)(7) or (8), Penal Code, prostitution under Section 43.02(b), Penal Code, or compelling prostitution under Section 43.05(a)(2), Penal Code;
- (H) Causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene as defined by Section 43.21, Penal Code, or pornographic;
- (I) The current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical, mental, or emotional injury to a child;
- (J) Causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code;

- (K) Cusing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by Section 43.25, Penal Code;
- (L) Knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked in a manner punishable as an offense under Section 20A.02(a)(5), (6), (7), or (8), Penal Code, or the failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under any of those sections; or
- (M) Forcing or coercing a child to enter into a marriage.

Family Code 261.001(1).

b) Definition of Neglect

“Neglect” means an act or failure to act by a person responsible for a child’s care, custody, or welfare evidencing the person’s blatant disregard for the consequences of the act or failure to act that results in harm to the child or that creates an immediate danger to the child’s physical health or safety. *Family Code 261.001(4).*

Neglect includes the leaving of a child in a situation where the child would be exposed to an immediate danger of physical or mental harm, without arranging for necessary care for the child, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child. *Family Code 261.001(4)(A)(i).*

Neglect includes the following acts or omissions by a person:

- (a) Placing a child in, or failing to remove a child from, a situation that a reasonable person would realize requires judgment or actions beyond the child’s level of maturity, physical condition, or mental abilities and that results in bodily injury or an immediate danger of harm to the child;
- (b) Failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting an immediate danger of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child;
- (c) The failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused;
- (d) Placing a child in, or failing to remove the child from, a situation in which the child would be exposed to an immediate danger of sexual conduct harmful to the child; or
- (e) placing a child in or failing to remove the child from a situation in which the child would be exposed to acts or omissions that constitute abuse under Subdivision (E), (F), (G), (H), or (K), above, committed against another child.

Family Code 261.001(4)(A)(ii).

Neglect includes the failure by the person responsible for a child’s care, custody, or welfare to permit the child to return to the child’s home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away. *Family Code 261.001(4)(A)(iii)*.

Neglect includes a negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program, including failure to comply with an individual treatment plan, plan of care, or individualized service plan, that causes or may cause substantial emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy. *Family Code 261.001(4)(A)(iv)*.

Neglect does not include the refusal by a person responsible for a child’s care, custody, or welfare to permit the child to remain in or return to the child’s home resulting in the placement of the child in the conservatorship of the department if:

- (a) the child has a severe emotional disturbance;
- (b) the person’s refusal is based solely on the person’s inability to obtain mental health services necessary to protect the safety and well-being of the child; and
- (c) the person has exhausted all reasonable means available to the person to obtain the mental health services described by subparagraph (b), above.

Family Code 261.001(4)(B)(i). Neglect also does not include allowing the child to engage in independent activities that are appropriate and typical for the child’s level of maturity, physical condition, developmental abilities, or culture. *Family Code 261.001(4)(B)(ii)*.

c) General Duty to Report

Any person who has reasonable cause to believe that a child’s physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as required by law. *Family Code 261.101(a)*. Moody Early Childhood Center may not require that school personnel report suspicions of child abuse or neglect to a school administrator prior to making a report to one of the agencies identified in Sec. 4 below. *19 TAC 61.1051(b)(5)*.

d) Reporting Abuse or Neglect of Persons with Disabilities

Any person who has cause to believe that a person with a disability who is over the age of 18 or who has had the disabilities of minority removed is in a state of abuse, neglect, or exploitation shall report the information immediately to the Texas Department of Family and Protective Services (“DFPS”).

A person filing a report or testifying or otherwise participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability on account of

his or her petition, report, testimony, or participation, unless the person acted in bad faith or with a malicious purpose. *Human Resources Code 48.051, .054.*

e) Reporting Abuse or Neglect By A Professional

Any professional who has reasonable cause to believe that a child has been or may be abused or neglected shall make a report as required by law. The report must be made within 48 hours after the professional first has reasonable cause to believe abuse or neglect. A professional may not delegate to or rely on another person to make the report.

A “professional” is a person who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, employees of a clinic or health care facility that provides reproductive services, and juvenile probation, detention or correctional officers. *Family Code 261.101(b).*

f) Reporting Adult Victims of Abuse

A person or professional shall make a report in the manner required above if the person or professional has reasonable cause to believe that an adult was a victim of abuse or neglect as a child and the person or professional determines in good faith that disclosure of the information is necessary to protect the health and safety of another child or an elderly person or person with a disability. *Family Code 261.101(b-1).*

g) Refusal of Psychiatric or Psychological Treatment of a Child

An employee may not use the refusal of a parent, guardian, or managing or possessory conservator of a child to administer or consent to the administration of a psychotropic medication to a child, or to consent to any other psychiatric or psychological treatment of a child, as the sole basis for making a report of neglect of the child unless the refusal to consent:

1. Presents a substantial risk of death, disfigurement, or bodily injury to the child; or
2. Has resulted in an observable and material impairment to the growth, development, or functioning of the child.

Education Code 26.0091; Family Code 261.111.

SEC. 3. CONTENTS OF REPORT

The report should reflect the reporter’s belief that a child has been or may be abused or neglected or has died of abuse or neglect. The person making the report shall identify, if known:

1. The name and address of the child;
2. The name and address of the person responsible for the care, custody, or welfare of the child; and
3. Any other pertinent information concerning the alleged or suspected abuse or neglect.

Family Code 261.102, .104.

SEC. 4. ENTITIES TO WHOM REPORTS MUST BE MADE REPORTED

If the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to the DFPS, unless the report is made under item 3, below, or the report involves a juvenile justice program or facility.

All other reports shall be made to:

1. Any local or state law enforcement agency;
2. The DFPS, including a local office where available;
3. The state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred; or
4. The agency designated by the court to be responsible for the protection of children.

Family Code 261.103(a); 19 TAC 61.1051(a)(1).

SEC. 5. IMMUNITIES

A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from any civil or criminal liability that might otherwise be incurred or imposed. *Family Code 261.106(a).*

Moody Early Childhood Center may not suspend or terminate the employment of, or otherwise discriminate against, a professional who makes a good faith report of abuse or neglect. *Family Code 261.110(b).*

SEC. 6. CRIMINAL OFFENSES

a) Failure to Report

A person commits a Class A misdemeanor if he or she has reasonable cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect and knowingly fails to report it as provided by law. Failure to report child abuse or neglect violates the Educator's Code of Ethics and may result in sanctions against an educator's certificate, as addressed in 19 TAC 249. *Family Code 261.109; 19 TAC 61.1051(b)(2)(A).*

b) False Report

A person commits an offense if, with the intent to deceive, the person knowingly makes a report of abuse and neglect that is false. The offense is a state jail felony, except that it is a felony of the third degree if the person has previously been convicted of the offense. *Family Code 261.107(a)*.

c) Coercion

A school employee who coerces another into suppressing or failing to report child abuse or neglect to a law enforcement agency may be subject to Class C misdemeanor penalties. *Penal Code 39.06*.

SEC. 7. POTENTIAL SBEC PENALTIES

The State Board for Educator Certification (SBEC) may take action as allowed under 19 TAC 249.15(a) based on satisfactory evidence that a person has failed to report or has hindered the reporting of child abuse as required under Family Code 261.001, or has failed to notify the SBEC or the Superintendent or designee under the circumstances and in the manner required by Education Code 21.006 and 19 TAC 249.14(d)-(f). *19 TAC 249.15(b)(4)*.

SEC. 8. CONFIDENTIALITY

A report of alleged or suspected abuse or neglect and the identity of the person making the report is confidential and not subject to release under Government Code Chapter 552 (Public Information Act). Such information may be disclosed only for purposes consistent with federal or state law or under rules adopted by an investigating agency. *Family Code 261.201*.

Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only to a law enforcement officer for the purposes of a criminal investigation of the report, or as ordered by a court under Family Code 261.201. *Family Code 261.101(d)*.

SEC. 9. INVESTIGATIONS

a) Reports to the School

If the DFPS initiates an investigation and determines that the abuse or neglect involves a Moody Early Childhood Center employee, and that the child is a student at Moody Early Childhood Center, the department shall orally notify the Superintendent. *Family Code 261.105(d)*.

The DFPS shall, upon request, send a written report of its investigation, as appropriate, to the Principal, unless the Principal is alleged to have committed the abuse or neglect, to the Board, and to the Superintendent. *Family Code 261.406(b)*.

b) Interviewing Students

The investigating agency shall be permitted to interview the child at any reasonable time and place, including the child’s school. *Family Code 261.302(b)*.

c) Interfering with Investigation Confidentiality

A person may not interfere with an investigation of a report of child abuse or neglect conducted by the DFPS. *Family Code 261.303(a)*.

A photograph, videotape, audiotape, or other audio or visual recording, depiction, or documentation of a child that is made by DFPS in the course of an inspection or investigation is confidential, is not subject to release under the Texas Public Information Act, and may be released only as required by state or federal law or rules adopted by the DFPS. *Human Resources Code 42.004*.

SEC. 10. ANNUAL REVIEW

The Board shall annually review policies for reporting child abuse and neglect. The policies shall follow the requirements of Family Code Chapter 261, 19 TAC 61.1051, and 40 TAC Chapter 700 with respect to investigations by DFPS.

SEC. 11. VIOLATIONS OF POLICY

Any Moody Early Childhood Center employee who violates the reporting requirements under Chapter 261, Family Code is subject to disciplinary action, up to and including termination of employment.

SEC. 12. ANNUAL DISTRIBUTION AND STAFF DEVELOPMENT

The Superintendent or designee shall develop additional guidelines concerning the reporting of suspected child abuse and neglect. Such guidelines shall be distributed to all personnel at the beginning of each school year and shall be addressed in staff development programs at regular intervals determined by the Board. *19 TAC 61.1051(c)*.

Each school year, Moody Early Childhood Center shall provide training as required by Education Code 38.0041 to all new school employees as part of new employee orientation. *Education Code 38.0041; 19 TAC 61.1051(d)*.

SEC. 13. REQUIRED POSTER

Moody Early Childhood Center shall place a poster of the following specifications at every campus in at least one high-traffic, highly and clearly visible public area that is readily accessible to and widely used by students. The poster must:

1. Be in a format and language that is clear, simple, and understandable to students;
2. Be in English and in Spanish;
3. Be 11x17 inches or larger;
4. Be in large print;
5. Be placed at eye-level to the student for easy viewing; and
6. Include the following information:
 - a. In bold print, the current toll-free DFPS abuse Hotline telephone number (1-800-252-5400);
 - b. Instructions to call 911 for emergencies; and
 - c. Directions for accessing the DFPS website (<http://www.txabusehotline.org>) for more information on reporting abuse, neglect, and exploitation.

Education Code 38.0042; 19 TAC 61.1051(e), (f).

The Superintendent shall develop and publish a plan for addressing sexual abuse, sex trafficking, and other maltreatment of children as required by Texas Education Code 38.0041. Such plan shall include:

1. Methods for increasing staff, student, and parent awareness of issues regarding sexual abuse, sex trafficking, and other maltreatment of children, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim of sexual abuse, sex trafficking, or other maltreatment, using resources developed by the Texas Education Agency (“TEA”);
2. Actions that a child who is a victim of sexual abuse, sex trafficking, or other maltreatment should take to obtain assistance and intervention; and
3. Available counseling options for students affected by sexual abuse, sex trafficking, or other maltreatment.

Moody Early Childhood Center shall provide employee training concerning prevention techniques for and recognition of sexual abuse, sex trafficking, and all other maltreatment of children, including the sexual abuse, sex trafficking, and other maltreatment of children with significant cognitive disabilities. The training:

1. Must be provided, as part of a new employee orientation, to new Moody Early Childhood Center employees, including counselors and coaches, and other professional staff members according to a schedule adopted by the TEA until all employees have taken the training; and
2. Must include training concerning:
 - a. Factors indicating a child is at risk for sexual abuse, sex trafficking, or other maltreatment;
 - b. Likely warning signs indicating a child may be a victim of sexual abuse, sex trafficking, or other maltreatment;
 - c. Internal procedures for seeking assistance for a child who is at risk for sexual abuse, sex trafficking, or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;
 - d. Techniques for reducing a child’s risk of sexual abuse, sex trafficking, or other maltreatment; and
 - e. Community organizations that have relevant existing research-based programs that are able to provide training or other education for school district or open-enrollment charter school staff members, students, and parents.

Moody Early Childhood Center shall maintain records that include the name of each staff member who participated in the training.

If the Superintendent or designee determines that Moody Early Childhood Center does not have sufficient resources to provide the training required under this policy, Moody Early Childhood

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Center shall work in conjunction with a community organization to provide the training at no cost to Moody Early Childhood Center.

Education Code 38.0041.

SEC. 1. IMMUNIZATION REQUIREMENTS

Each student shall be fully immunized against diphtheria, rubeola (measles), rubella, mumps, tetanus, and poliomyelitis, unless exempted under applicable law. The Texas Department of State Health Services (“TDSHS”) may modify or delete any of these immunizations or may require immunizations against additional diseases as a requirement for admission to any elementary or secondary school. *Education Code 38.001(a), (b)*.

Students in kindergarten through twelfth grade shall have the following additional vaccines, according to the immunization schedules set forth in TDSHS regulations: pertussis, hepatitis B, hepatitis A, and varicella (chickenpox). TDSHS requires students enrolling in seventh through twelfth grades to have one dose of meningococcal vaccine on or after the student’s 11th birthday. *25 TAC 97.63*.

Under Health and Safety Code Chapter 81, Subchapter E, additional vaccinations may be required by TDSHS and/or the local health authority in specific situations under the mechanism of a control order containing control measures. *25 TAC 97.72*.

SEC. 2. IMMUNIZATION AWARENESS PROGRAM

Moody Early Childhood Center shall post prominently on its Web site:

1. A list, in English and Spanish, of:
 - a. The immunizations required by TDSHS for admission to public school;
 - b. Any immunizations or vaccines recommended for public school students by TDSHS. The list must include the influenza vaccine, unless TDSHS requires the influenza vaccine for admission to public school; and
 - c. Health clinics in Moody Early Childhood Center’s geographic boundaries that offer the influenza vaccine, to the extent those clinics are known to Moody Early Childhood Center; and
2. A link to the TDSHS Internet Web site where a person may obtain information relating to the procedures for claiming an exemption from the immunization requirements. The link must be presented in the same manner as the information provided under paragraph 1.

Education Code 38.019.

SEC. 3. APPLICABILITY OF IMMUNIZATION REQUIREMENTS

The vaccine requirements discussed in this policy apply to all students entering, attending, enrolling in, and/or transferring to Moody Early Childhood Center. *25 TAC 97.61(a)*.

a) Exceptions to Immunization Requirements

Immunization is not required for admission if the student submits to Moody Early Childhood Center any of the following:

i. Medical Reasons

An affidavit or a certificate signed by the student’s physician (M.D. or D.O.) who is duly registered and licensed to practice medicine in the United States and who has examined the student. The affidavit or certificate must state that, in the physician’s opinion, the immunization required is medically contraindicated or poses a significant risk to the health and well-being of the student or any member of the student’s household. Unless it is written in the statement that a lifelong condition exists, the exemption statement is valid for only one year from the date signed by the physician.

ii. Reasons of Conscience

An affidavit signed by the student or, if a minor, the student’s parent or legal guardian stating that the student declines immunization for reasons of conscience, including a religious belief. The affidavit will be valid for a two-year period. The affidavit must be on a form obtained from the TDSHS and must be submitted to the admitting official not later than the 90th day after the date the affidavit is notarized. A student who has not received the required immunizations for reasons of conscience may be excluded from school in times of emergency or epidemic declared by the commissioner of state health services.

iii. Military Duty

If the student can prove that he or she is a member of the armed forces of the United States and is on active duty.

Education Code 38.001(c), (c-1), (f); Health and Safety Code 161.004(a), (d), .0041; 25 TAC 97.62.

SEC. 4. PROVISIONAL ENROLLMENT

A student may be provisionally admitted or enrolled if the student has begun the required immunizations. The student must have an immunization record that indicates the student has received at least one dose of each age-appropriate vaccine specified in the regulations.

a) Completion of Vaccinations

To remain enrolled, the student must continue to receive the necessary immunizations as rapidly as medically feasible. The student must complete the required subsequent doses in each vaccine series on schedule and as rapidly as is medically feasible and provide acceptable evidence of vaccination to Moody Early Childhood Center.

b) Status Review

Moody Early Childhood Center shall review the immunization status of a provisionally enrolled student every 30 days to ensure continued compliance in completing the required doses of vaccination. If, at the end of the 30-day period, a student has not received a subsequent dose of vaccine, the student is not in compliance and Moody Early Childhood Center shall exclude the student from school attendance until the required dose is administered.

Education Code 38.001(e); 25 TAC 97.66(a).

c) Homeless Students

A student who is homeless, as defined in the McKinney-Vento Homeless Assistance Act, shall be admitted temporarily for 30 days if acceptable evidence of vaccination is not available. Moody Early Childhood Center shall promptly refer the student to appropriate health provider to obtain the required vaccinations. *25 TAC 97.66(b); 42 U.S.C. 11302.*

d) Child in Foster Care

A student who is a “child in foster care” as defined by 45 C.F.R. 1355.20(a) shall be admitted temporarily for 30 days if acceptable evidence of vaccination is not available. Moody Early Childhood Center shall promptly refer the student to an appropriate health provider to obtain the required vaccinations. *25 TAC 97.66(c).*

e) Transfer Students

A student can be enrolled provisionally for no more than 30 days if the student transfers from one Texas school to another, and is awaiting the transfer of the immunization record. *25 TAC 97.69(a).*

f) Military Dependents

A military dependent can be enrolled provisionally for no more than 30 days if the student transfers from one school to another and is awaiting the transfer of the immunization record. The collection and exchange of information pertaining to immunizations shall be subject to

confidentiality provisions prescribed by federal law. *Education Code 162.002 art. IV, C; 25 TAC 97.69(b)*.

SEC. 5. EVIDENCE OF IMMUNIZATION

A student shall show acceptable evidence of vaccination before entry, attendance, or transfer to Moody Early Childhood Center.

Vaccines administered after September 1, 1991, shall include the month, day, and year each vaccine was administered. The following documentation is acceptable:

1. Documentation of vaccines administered that includes the signature or stamp of the physician or his or her designee, or public health personnel (immunization records generated from electronic health record systems must include clinic contact information and the provider’s signature/stamp);
2. An official immunization record generated from a state or local health authority; or
3. An official record received from school officials including a record from another state.

25 TAC 97.68.

Serologic confirmations of immunity to measles, rubella, mumps, hepatitis A, hepatitis B, or varicella are acceptable. Evidence of measles, rubella, mumps, hepatitis A, hepatitis B, or varicella illnesses must consist of a valid laboratory report that indicates either confirmation of immunity or infection. A written statement from a parent, legal guardian, managing conservator, school nurse, or physician attesting to a child’s positive history of varicella disease (chickenpox) or varicella immunity is acceptable in lieu of a vaccine record for that disease. *25 TAC 97.65.*

SEC. 6. IMMUNIZATION RECORDS

Moody Early Childhood Center shall keep an individual immunization record during the period of attendance for each student admitted. The records shall be sufficient for a valid audit or other assessment to be completed. The records shall be open for inspection at all reasonable times by the Texas Education Agency, local health departments, or the TDSHS. Immunization records may be maintained in paper and/or electronic form. *Education Code 38.002(a); 25 TAC 97.67.*

a) Transfer of Records

Moody Early Childhood Center shall cooperate in transferring students’ immunization records to other schools. Specific approval from students, parents, or guardians is not required before transferring those records. *Education Code 38.002(b)*.

b) Annual Report

Moody Early Childhood Center shall submit annual reports of the immunization status of students, in a format prescribed by and at the time and in the manner indicated by TDSHS, to monitor compliance with immunization requirements. *Education Code 38.002(c); 25 TAC 97.71.*

SEC. 7. CONSENT TO IMMUNIZATION

In addition to persons authorized to consent to immunization under Family Code Chapters 151 (parents) and 153 (conservators), the following persons may consent to the immunization of a child:

1. A guardian of the child; and
2. A person authorized under the law of another state or a court order to consent for the child.

Family Code 32.101(a).

Moody Early Childhood Center may give consent to the immunization if:

1. The persons listed above are not available; and
2. Moody Early Childhood Center has written authorization to consent from a person listed above.

Family Code 32.101(b)(5).

Moody Early Childhood Center may not consent for the child if it has actual knowledge that a person listed above has:

1. Expressly refused to give consent to the immunization;
2. Been told not to consent for the child; or
3. Withdrawn a prior written authorization for Moody Early Childhood Center to consent.

Family Code 32.101(c).

a) *Consent by Child*

A child may consent to the child's own immunization for a disease if the child is pregnant or is the parent of a child and has actual custody of that child, and the Centers for Disease Control and Prevention recommend or authorize the initial dose of an immunization for that disease to be administered before seven years of age. Consent by a child to immunization is not subject to disaffirmance because of minority.

Family Code 32.1011.

b) Duty to Provide Information

If Moody Early Childhood Center consents to immunization of a child, it shall provide the health-care provider with sufficient and accurate health history and other information necessary for the health-care provider to determine adequately the risks and benefits inherent in the proposed immunization and to determine whether immunization is advisable.

c) Form of Consent

Consent to immunization must be in writing, signed by the person giving consent, and given to the doctor, hospital, or other medical facility that administers the treatment.

The consent must include:

1. The name of the child;
2. The name of one or both parents, if known, and the name of any managing conservator or guardian of the child; the name of the person giving consent and the person's relationship to the child;
3. A statement of the nature of the medical treatment to be given; and
4. The date the treatment is to begin.

Moody Early Childhood Center has the responsibility to ensure that the consent, if given, is an informed consent. Moody Early Childhood Center is not required to be present when the immunization is requested if a consent form has been given to the health-care provider.

Family Code 32.101(f), .002, .102.

d) Liability

Moody Early Childhood Center is not liable for damages arising from an immunization administered to a child authorized under Family Code Subchapter B except for injuries resulting from Moody Early Childhood Center's own acts of negligence. *Family Code 32.103.*

SEC. 1. CONSENT TO MEDICAL TREATMENT

Moody Early Childhood Center may consent to medical, dental, psychological, and surgical treatment of an enrolled student provided all of the following conditions are met:

1. The person having the power to consent as otherwise provided by law cannot be contacted.
2. Actual notice to the contrary has not been given by that person.
3. Written authorization to consent has been received from that person.

Family Code 32.001(a)(4).

a) *Form of Consent*

Consent to medical treatment shall be in writing, signed by the school official giving consent, and given to the doctor, hospital, or other medical facility that administers the treatment. The consent must contain:

1. The name of the student;
2. The name of one or both parents or legal guardians, if known, and the name of the managing conservator or guardian of the student, if either has been appointed;
3. The name of the person giving consent and the person's relation to the student;
4. A statement of the nature of the medical treatment to be given; and
5. The date on which the treatment is to begin.

Family Code 32.002.

b) *Minor's Consent to Treatment*

A minor may consent to medical, dental, psychological, and surgical treatment furnished by a licensed physician or dentist if the minor:

1. Is on active duty with the armed services of the United States of America;
2. Is 16 years of age and residing separate and apart from the minor's parents, managing conservator, or guardian, with or without the consent of the parents, managing conservator, or guardian and regardless of the duration of the residence, and is managing his or her own financial affairs, regardless of the source of the income;
3. Consents to the diagnosis and treatment of any infectious, contagious, or communicable disease required to be reported to the Texas Department of State Health Services, including all reportable diseases under Health and Safety Code 81.041;
4. Is unmarried and pregnant, and consents to hospital, medical, or surgical treatment, other than abortion, related to her pregnancy;

5. Consents to examination and treatment for drug or chemical addiction, drug or chemical dependency, or any other condition directly related to drug or chemical use; or
6. Is unmarried, is the parent of a child, and has actual custody of his or her child and consents to medical, dental, psychological, or surgical treatment for the child.

Family Code 32.003.

a) *Purchasing Medication*

Moody Early Childhood Center shall not purchase nonprescription medication to administer to a student.

SEC. 2. SUNSCREEN PRODUCTS

A student may possess and use a topical sunscreen product while on school property or at a school-related event or activity to avoid overexposure to the sun and not for the medical treatment of an injury or illness if the product is approved by the federal Food and Drug Administration for over-the-counter use. *Education Code 38.021.*

SEC. 3. SELF-ADMINISTRATION OF ASTHMA OR ANAPHYLAXIS MEDICINE

A student with asthma or anaphylaxis may possess and self-administer prescription asthma or anaphylaxis medicine while on school property or at a school-related event or activity if:

1. The prescription medicine has been prescribed for that student as indicated by the prescription label on the medicine;
2. The student has demonstrated to the student’s physician or other licensed health care provider and the school nurse, if available, the skill level necessary to self-administer the prescription medication, including the use of any device required to administer the medication;
3. The self-administration is done in compliance with the prescription or written instructions from the student’s physician or other licensed health care provider; and
4. A parent of the student provides to Moody Early Childhood Center:
 - a. Written authorization, signed by the parent, for the student to self-administer the prescription medicine while on school property or at a school-related event or activity; and
 - b. A written statement, signed by the student’s physician or other licensed health care provider, that states:
 - (1) That the student has asthma or anaphylaxis and is capable of self-administering the prescription medicine;
 - (2) The name and purpose of the medicine;
 - (3) The prescribed dosage for the medicine;

- (4) The times at which or circumstances under which the medicine may be administered; and
- (5) The period for which the medicine is prescribed.

The physician's statement must be kept on file in the school nurse's office, or, if there is no school nurse, in the office of the Principal of the school the student attends.

Education Code 38.015.

SEC. 4. DIETARY SUPPLEMENTS

A Moody Early Childhood Center employee commits a Class C misdemeanor offense if the employee:

1. Knowingly sells, markets, or distributes a dietary supplement that contains performance enhancing compounds to a primary or secondary education student with whom the employee has contact as part of the employee's school duties; or
2. Knowingly endorses or suggests the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by a primary or secondary education student with whom the employee has contact as part of the employee's school duties.

Education Code 38.011(a), (c).

SEC. 5. PRESCRIPTION MEDICATION AND SPECIAL EDUCATION STUDENTS

A Moody Early Childhood Center employee is prohibited from requiring a child to obtain a prescription for a substance covered under the federal Controlled Substances Act (21 U.S.C. 801 et seq.) as a condition of attending school, receiving an evaluation for special education, or receiving special education and related services. An employee is not prohibited from consulting or sharing classroom-based observations with parents or guardians regarding a student's academic and functional performance, behavior in the classroom or school, or the need for evaluation for special education or related services. *20 U.S.C. 1412(a)(25).*

SEC. 6. STUDENT ILLNESS

The Superintendent or designee shall establish procedures to ensure that proper attention is given to a student who becomes ill during the school day.

SEC. 7. ACCIDENTS INVOLVING STUDENTS

The Superintendent or designee shall establish emergency procedures to ensure appropriate attention for a student injured at school. Moody Early Childhood Center shall maintain records on all accidents requiring the attention of a medical doctor.

SEC. 8. EMERGENCY TREATMENT FORMS

Each year, students and parents shall complete and sign a form that provides emergency information and authorizes school officials to obtain emergency medical treatment, as provided by law.

SEC. 1. STANDARDS FOR ADMINISTERING MEDICATION AT SCHOOL

All medications administered to students shall be FDA-approved pharmaceuticals administered within their approved dosage and within standards of acceptable medical regimen. Research pharmaceuticals may be administered if they are a part of a University Institutional Review Board-approved protocol. Intravenous (IV) medications and treatments shall not be administered by Moody Early Childhood Center personnel.

SEC. 2. AUTHORIZED PERSONNEL

Moody Early Childhood Center employees shall not give any student prescription medication, nonprescription medication, herbal substances, or dietary supplements of any type, except as provided below. Employees authorized by the Superintendent or designee may administer to students:

a) Administering Prescription Medication

Prescription medication upon written request to administer the medication from the student’s parent, guardian, or other person having legal control of the student. When administering prescription medication, the medication must be administered either:

1. From a container that appears to be from the original container and properly labeled; or
2. From a properly labeled unit dosage container filled by a registered nurse from a container that appears to be the original container and to be properly labeled.

All prescription medications shall have been prescribed by a physician licensed to practice medicine in the United States. All medications shall have been manufactured in the United States.

Texas Department of State Health Services Guide to Medication Administration in the School Setting

b) Administering Nonprescription Medication

i. Nonprescription Medication Administered upon Parent Request

Nonprescription medication may be administered by authorized Moody Early Childhood Center personnel upon a parent’s written request, when properly labeled and in the original container; or if required by the individualized education program (“IEP”) or Section 504 plan of a student with disabilities.

ii. Nonprescription Medication Administered by Moody Early Childhood Center

Authorized Moody Early Childhood Center personnel may administer nonprescription medication on an emergency basis and consistent with protocols established by Moody Early Childhood Center’s medical adviser and parent consent given on an emergency treatment form.

c) Herbal Substances or Dietary Supplements

Herbal substances or dietary supplements may be administered by authorized Moody Early Childhood Center personnel **only if** required by the IEP or Section 504 plan of a student with disabilities.

d) Provision of Medication Off-Campus at School-Sponsored Events

For any Moody Early Childhood Center student attending a field trip or off-campus school-sponsored event, any prescription medication that Moody Early Childhood Center is required to administer under this policy shall be sent with the student’s teacher or another staff member trained in the proper administration of medication and who has been authorized to administer medication by the Superintendent or designee, along with instructions on the administration of the medication.

In addition to trained and authorized Moody Early Childhood Center teacher(s) and/or nurse(s), a licensed physician in Texas, a registered nurse licensed in Texas, or a vocational nurse licensed in Texas may serve as a Moody Early Childhood Center volunteer to administer prescription and non-prescription medication in accordance with this policy when on field trips and/or off-campus or on school-sponsored events. Prior to being allowed to do so, such individuals must meet with the school nurse for instruction and training on administration of medication for applicable students.

Nonprescription medication(s) generally are not administered by Moody Early Childhood Center during field trips and/or off-campus or on school-sponsored events.

In the event of an emergency medical situation involving a Moody Early Childhood Center student for which no Moody Early Childhood Center employee was previously aware and that occurs during a field trip and/or during an off-campus, school-sponsored event when no school nurse is present, emergency medical services shall immediately be notified by any Moody Early Childhood Center employee in attendance.

SEC. 3. PSYCHOTROPICS

Except as permitted by Education Code 38.016, a Moody Early Childhood Center employee shall not:

1. Recommend to a student, parent that the student use a psychotropic drug;
2. Suggest a particular diagnosis; or
3. Exclude the student from a class or a school-related activity because of the parent's refusal to consent to psychiatric evaluation or examination or treatment of the student.

Education Code 38.016.

SEC. 1. REPORTS

Moody Early Childhood Center authorities, including the Superintendent, Principals, teachers, school health officials, or counselors, shall report to the local health authority those students attending school who are suspected of having a notifiable condition, as defined by state law and the Texas Department of State Health Services (“TDSHS”). If there is no local health authority appointed or if PC is outside the jurisdiction of a local health authority, the report shall be made to the regional director. *25 TAC 97.2(d), .5(a); Health and Safety Code 81.041–.042.*

a) *Sexually Transmitted Diseases and HIV*

In addition to the reporting requirements identified above, the Superintendent or designee shall report cases and suspected cases of sexually transmitted diseases in the manner outlined in 25 TAC 97.133. *25 TAC 97.132(a)(1).*

b) *Penalties*

A person commits a Class B misdemeanor if the person knowingly fails to report a reportable disease or health condition under Health and Safety Code Chapter 81, Subchapter B. *Health and Safety Code 81.049.*

SEC. 2. EXCLUSION FROM SCHOOL

Principals shall exclude from attendance any student suffering from a communicable condition listed in 25 TAC 97.7(a) until the readmission criteria for the condition are satisfied. *25 TAC 97.7(a).*

Additionally, Principals shall exclude from attendance any student having or suspected of having a communicable disease designated by the Commissioner of State Health Services as a cause for exclusion. A child excluded for such reason may be readmitted, as determined by the health authority, by:

1. Submitting a certificate of an attending physician, advanced practice nurse, or physician assistant attesting that the child does not currently have signs or symptoms of a communicable disease or to the disease’s non-communicability in a school setting;
2. Submitting a permit for readmission issued by a local health authority; or
3. Meeting readmission criteria set by the Commissioner of State Health Services.

25 TAC 97.7(b)-(c).

SEC. 3. BACTERIAL MENINGITIS

In accordance with guidelines provided by the Texas Education Agency, Moody Early Childhood Center shall provide information relating to bacterial meningitis to its students and their parents each school year in a manner ensuring that the information is reasonably likely to come to the attention of the parents of each student. *Education Code 38.0025.*

SEC. 4. ISSUES RELATED TO HEAD LICE

a) No Exclusions from School

Students should not be excluded from school due to the presence of head lice. The Centers for Disease Control and Prevention (“CDC”), the American Academy of Pediatrics, and the TDSHS have noted that there is little evidence that exclusion from school reduces the transmission of head lice.

The goal of lice prevention and control in Moody Early Childhood Center is to limit the spread of lice from one student to another through accurate diagnosis and meaningful and consistent communication and education.

b) Students with Head Lice

When a student is suspected of having head lice, the school nurse or another school official shall inspect the child. Children shall be inspected by the school nurse or another school official with consideration for privacy and confidentiality.

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

c) Parent Notice

When the school nurse or other school official determines or otherwise becomes aware that a child enrolled in an elementary grade has lice, Moody Early Childhood Center shall provide written or electronic notice of that fact to:

1. The parent of the child with lice as soon as practicable, but not later than 48 hours after Moody Early Childhood Center, determines or becomes aware of that fact; and
2. The parent of each child assigned to the same classroom as the child with lice not later than the fifth school day after the date on which Moody Early Childhood Center determines or becomes aware of that fact.

The notices provided to parents will include the recommendations of the CDC for the treatment and prevention of lice, and the notice to the parent of each child assigned to the same classroom as the child with lice (as described in item 2 above) may not identify the child with lice.

Education Code 38.031.

SEC. 1. STUDENTS AT RISK FOR ANAPHYLAXIS

a) Welfare Plan

The Board shall adopt and implement a plan for the care of students with a diagnosed food allergy at risk for anaphylaxis based on “*Guidelines for the Care of Students With Food Allergies At-Risk for Anaphylaxis*,” as developed by the Commissioner of State Health Services.

The Board shall annually review and, as necessary, revise its policy for the care of students with a diagnosed food allergy risk for anaphylaxis to ensure the policy is consistent with the most current version of the “*Guidelines for the Care of Students With Food Allergies At-Risk for Anaphylaxis*.”

The adoption and implementation of such plan does not waive any liability or immunity of Moody Early Childhood Center or its officers or employees, or create any liability for or cause of action against Moody Early Childhood Center or its officers or employees.

b) Required Website Posting

Each school year, Moody Early Childhood Center shall post a summary of the “*Guidelines for the Care of Students With Food Allergies At-Risk for Anaphylaxis*” on the Moody Early Childhood Center website, including instructions on obtaining access to the complete guidelines document. The Moody Early Childhood Center website must be accessible by each enrolled student and a parent or guardian of each student.

Any forms used by Moody Early Childhood Center requesting information from a parent or guardian enrolling a child with a food allergy must include information to access on Moody Early Childhood Center’s website a summary of the guidelines and instructions on obtaining access to the complete guidelines document.

Education Code 38.0151(b).

SEC. 2. FOOD ALLERGY MANAGEMENT

The Superintendent or designee shall develop and implement a student food allergy management plan for students at risk for anaphylaxis that incorporates the following components:

a) General Procedures

Procedures to limit the potential health risks to students with food allergies will include:

1. Specialized training for the employees responsible for the development, implementation, and monitoring of Moody Early Childhood Center’s food allergy management plan;

2. Training for employees regarding signs and symptoms of food allergies and emergency response in the event of an anaphylactic reaction;
3. General strategies to reduce the risk of exposure to common food allergies;
4. Methods for requesting and obtaining food allergy information from the parent of a student with a diagnosed food allergy; and
5. The annual review of Moody Early Childhood Center’s food allergy management plan.

b) Students at Risk for Anaphylaxis

Procedures for the care of students with diagnosed food allergies who are at risk for anaphylaxis will include:

1. Development and implementation of food allergy action plans, emergency action plans, and Section 504 plans, as appropriate;
2. Training, as necessary, for employees, including strategies for reducing student risk of exposure to diagnosed allergens; and
3. Periodic review of general procedures to limit the potential health risks to students.

c) Distribution

The Superintendent shall distribute information regarding this policy and Moody Early Childhood Center’s food allergy management plan annually in the student handbook. Information will also be made available at each Moody Early Childhood Center campus.

SEC. 3. SEIZURE MANAGEMENT AND TREATMENT PLANS

a) General Requirements

The parent or guardian of a student with a seizure disorder may seek care for the student’s seizures while the student is at school or participating in a school activity by submitting to Moody Early Childhood Center a copy of a seizure management and treatment plan developed by the student’s parent or guardian and the physician responsible for the student’s seizure treatment. The plan must be submitted to and reviewed by Moody Early Childhood Center:

1. Before or at the beginning of the school year;
2. On enrollment of the student if the student enrolls after the beginning of the school year;
or
3. As soon as practicable following a diagnosis of a seizure disorder for the student.

Education Code 38.032(a).

b) Seizure Management and Treatment Plan Requirements

A seizure management and treatment plan must:

1. Identify the health care services the student may receive at school or while participating in a school activity;
2. Evaluate the student's ability to manage and level of understanding of the student's seizures; and
3. Be signed by the student's parent or guardian and the physician responsible for the student's seizure treatment.

Education Code 38.032(b).

c) Immunity Protections

The care of a student with a seizure disorder by a Moody Early Childhood Center employee under a seizure management plan is incident to or within the scope of the duties of the employee's position of employment and involves the exercise of judgment or discretion on the part of the employee for purposes of Education Code 22.0511. *Education Code 38.032(c).*

The immunity from liability provided by Education Code 22.0511 applies to an action or failure to act by a Moody Early Childhood Center employee in administering a medication, assisting with self-administration, or otherwise providing for the care of a student under a seizure management plan submitted for the student. *Education Code 38.032(d).*

SEC. 1. PHYSICAL FITNESS ASSESSMENT

Moody Early Childhood Center shall annually assess the physical fitness of students in grades 3 or higher using an assessment instrument adopted by the Commissioner of State Health Services (“CSHS”) (currently FitnessGram®). *Education Code 38.101(a), .102(a)*.

Moody Early Childhood Center is not required to assess a student for whom, as a result of disability or other condition identified by CSHS rule, the assessment instrument is inappropriate. *Education Code 38.101(b)*.

a) Report to Texas Education Agency (“TEA”)

Moody Early Childhood Center shall compile the results of the physical fitness assessment and provide summary results, aggregated by grade level and any other appropriate category identified by CSHS rule, to the TEA. The summary results may not contain the names of individual students or teachers, or a student’s date of birth or social security number.

b) Assessment Confidentiality

The results of individual student performance on the physical fitness assessment instrument are confidential and may be released only in accordance with state and federal law. *Education Code 38.103*.

SEC. 2. SCREENINGS: VISION AND HEARING

As soon as possible after admission and within a period set by CSHS rule, a student required to be screened shall undergo approved screening for vision and hearing disorders and any other special senses and communication disorders specified by the Texas Department of State Health Services (the “TDSHS”). *Health and Safety Code 36.005(a)*.

a) Superintendent’s Responsibility

The Superintendent shall ensure that each student admitted to Moody Early Childhood Center complies with the screening requirements set by the TDSHS or submits an affidavit of exemption. *Health and Safety Code 36.005(c)*.

b) Screening Schedule: Routine Screening

Children enrolled in prekindergarten and kindergarten must be screened each year within 120 days of enrollment. Children enrolled in the first, third, fifth, and seventh grades must receive vision and hearing screening in each of those grade years (can be done at any time during each of those years). Upon written request approved by the TDSHS, the screening of vision and hearing

may instead occur in prekindergarten; kindergarten; and first, second, fourth, and sixth grades. 25 TAC 37.25(a)(2), (3), (6).

c) Screening Schedule: Screening on Enrollment

Students four years of age and older, who are enrolled in Moody Early Childhood Center for the first time, must be screened for possible vision and hearing problems within 120 calendar days of enrollment. If the student is enrolled within 60 days of the date school closes for the summer, the student must be tested within 120 days of the beginning of the following school year. Students enrolled who turn four years of age after September 1 of that year are exempt from screening until the following September. 25 TAC 37.25(a)(1), (5).

d) Outside Screening

Except for students enrolled in prekindergarten, kindergarten, or first grade, Moody Early Childhood Center shall exempt a student from screening if the student's parent, managing conservator, or legal guardian, or the student under scenarios described at Family Code 32.003 submits a record showing that a professional examination was properly conducted during the grade year in question or during the previous year. The record must be submitted during the grade year for which the screening would otherwise be required. 25 TAC 37.25(a)(4).

e) Provisional Admission

A parent, managing conservator, or legal guardian, or the student under scenarios described at Family Code 32.003 may execute an affidavit stating that a person, other than the screener used by Moody Early Childhood Center, shall conduct the screening (or that a licensed professional shall conduct an examination) as soon as is feasible. Moody Early Childhood Center may admit the student on a provisional basis for up to 60 days, or may deny admission until the screening record(s) are provided to Moody Early Childhood Center. 25 TAC 37.25(b).

f) Exemption – Religions Beliefs

A student is exempt from screening if it conflicts with the tenets and practices of a recognized church or religious denomination of which the student is an adherent or a member. To qualify for the exemption, the student or minor student's parent, managing conservator, or guardian must submit on or before the day of admission an affidavit stating the objections to screening. *Health and Safety Code 36.005(b); 25 TAC 37.25(c).*

g) Records

The Superintendent shall maintain on a form prescribed by the TDSHS in accordance with TDSHS rules, screening records for each student in attendance, and the records are open for

inspection by the TDSHS or the local health department. *Health and Safety Code 36.006; 25 TAC 37.26.*

A student's screening records may be transferred among districts without the consent of the student or minor student's parent, managing conservator, or guardian. *Health and Safety Code 36.006(c); 25 TAC 37.26(b)(4).*

h) Annual Report

On or before June 30 of each year, Moody Early Childhood Center shall submit to the TDSHS a report on the vision and hearing screening status of its aggregate population screened during the reporting year. Moody Early Childhood Center shall report in the manner specified by the TDSHS. *Health and Safety Code 36.006(d); 25 TAC 37.26(b)(6).*

SEC. 3. SCREENINGS: RISK ASSESSMENT FOR TYPE 2 DIABETES

As soon as possible after admission and as required by rule, each student required to be assessed shall undergo approved risk assessment for type 2 diabetes. The risk assessment should:

1. Identify students with acanthosis nigricans; and
2. Further assess students identified under paragraph 1 to determine the students':
 - a. Body mass index; and
 - b. Blood pressure.

The risk assessment shall be performed at the same time hearing and vision screening or spinal screening is performed.

Health and Safety Code 95.002(d), .003(a).

a) Superintendent's Responsibility

The Superintendent shall ensure that each student admitted to Moody Early Childhood Center complies with the risk assessment requirements or submits an affidavit of exemption. *Health and Safety Code 95.003(c).*

b) Applicability

Students who attend public schools located in the TEA Regional Education Service Centers 1, 2, 3, 4, 10, 11, 13, 15, 18, 19, and 20 shall be subject to risk assessment. *Health and Safety Code 95.002(b).*

c) Outside Screening

The student or minor student’s parent, managing conservator, or guardian may substitute a professional examination for the risk assessment.

d) Exemption – Religious Beliefs

A student is exempt from risk assessment if it conflicts with the tenets and practices of a recognized church or religious denomination of which the student is an adherent or a member. To qualify for the exemption, the student or minor student’s parent, managing conservator, or guardian must submit to the Superintendent on or before the day of the risk assessment process, an affidavit stating the objections to the risk assessment. *Health and Safety Code 95.003(b)*.

e) Records

The Superintendent shall maintain the risk assessment records for each student in attendance and enter the risk assessment information for each student on the surveillance software selected by the University of Texas—Pan American Border Health Office (the Office). The risk assessment records are open for inspection by the Office or the local health department. *Health and Safety Code 95.004(a)*.

A student’s risk assessment records may be transferred among schools without the consent of the student or, if the student is a minor, the student’s parent, managing conservator, or guardian. *Health and Safety Code 95.004(c)*.

f) Annual Report

Moody Early Childhood Center shall submit to the Office an annual report on the risk assessment status of the students in attendance during the reporting year and shall include in the report any other required information. *Health and Safety Code 95.004(e)*.

SEC. 4. SCREENINGS: SPINAL SCREENING

Each student required by the TDSHS rule to be screened shall undergo approved screening for abnormal spinal curvature. *Health and Safety Code 37.002(a)*.

a) Superintendent’s Responsibility

The Superintendent shall ensure that each student admitted to Moody Early Childhood Center complies with the screening requirements or submits an affidavit of exemption. *Health and Safety Code 37.002(c), 25 TAC 37.144(b)*.

The Superintendent is also responsible for notifying a parent, guardian, or managing conservator of the requirement to conduct spinal screenings, the purpose and reasons for spinal screenings,

the potential risk to the child if declined, the method used to perform a spinal screening, and the method to decline a spinal screening based on a religious belief exemption. *25 TAC 37.144(a)*.

b) Screening Schedule: Routine Screening

Students who meet the criteria outlined in TDSHS policy shall be screened for abnormal spinal curvature before the end of the school year. *25 TAC 37.144(c)(1)*.

c) Screening Schedule: Screening at Enrollment

If a student is enrolled within 60 days of the date Moody Early Childhood Center closes for the summer, the student's screening must be conducted within 120 days of the beginning of the following school year. Moody Early Childhood Center may offer a student the opportunity for a spinal screening if the student has no record of having been screened previously. *25 TAC 37.144(c)(2), (3)*.

d) Outside Screening

The screening requirements may also be met by a professional examination as defined in *25 TAC 37.142(7)*. *25 TAC 37.144(c)(1)*.

e) Provisional Admission

A parent, managing conservator, or legal guardian, or the student under Family Code 32.003 may execute an affidavit stating that a person, other than the screener used by Moody Early Childhood Center, shall conduct the screening as soon as is feasible. Moody Early Childhood Center may admit the student on a provisional basis for up to 60 days, or may deny admission until the screening records are provided to Moody Early Childhood Center. The 60-day time period is from November 30 to January 30 of each school year. *25 TAC 37.144(d)*.

f) Exemption – Religious Beliefs

A student is exempt from screening if it conflicts with the tenets and practices of a recognized church or religious denomination of which the student is an adherent or member. To qualify for the exemption, the student's parent, managing conservator, or guardian must submit to the Superintendent on or before the day of the screening procedure an affidavit stating the objections to screening. *Health and Safety Code 37.002(b)*; *25 TAC 37.144(e)*.

g) Records

Moody Early Childhood Center must comply with recordkeeping and reporting requirements set out in *25 TAC 37.145(b)*.

h) Transfer of Records

Spinal screening records are transferrable between schools without the consent of the individual or, if the individual is a minor, the minor’s parent, managing conservator, or legal guardian. *25 TAC 37.145(b)(3)*.

i) Annual Report

On or before June 30 of each year, Moody Early Childhood Center shall submit to the TDSHS a complete and accurate annual report on the spinal screening status of its aggregate population screened during the reporting year. Moody Early Childhood Center shall report in the manner specified by the TDSHS (currently found at <http://chrstx.dshs.state.tx.us>. *25 TAC 37.145(b)(5)*).

SEC. 5. UNIVERSITY INTERSCHOLASTIC LEAGUE (“UIL”) PARTICIPATION

A student desiring to participate in the UIL athletic program shall submit to Moody Early Childhood Center a statement from a health care provider authorized under UIL rules indicating that the student has been examined and is physically able to participate in the athletic program. This examination is required for the first year of middle school competition and grades 9 and 11 of high school competition. In other years, the student shall complete a medical appraisal form. A student may be required to have a physical examination based on answers to the appraisal form.

SEC. 6. REFERRALS

Parents of students identified through screening programs as needing treatment or further examination shall be referred to health agencies as appropriate.

SEC. 7. ADDITIONAL POLICIES

As a condition of receiving funds under a program funded in whole or in part by the U.S. Department of Education (DOE), Moody Early Childhood Center shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), regarding the administration of physical examinations or screenings that Moody Early Childhood Center may administer to the student. Moody Early Childhood Center shall provide notice of the policies at least annually, at the beginning of the school year and within a reasonable time after any substantive change in the policies.

At least annually at the beginning of the school year, Moody Early Childhood Center shall directly notify the parent of a student of the specific or approximate dates during the school year when any nonemergency, invasive physical examination or screening, described below, is scheduled or expected to be scheduled. The required notification applies to nonemergency, invasive physical examinations or screenings that are:

1. Required as a condition of attendance;
2. Administered and scheduled by Moody Early Childhood Center in advance; and
3. Not necessary to protect the immediate health and safety of the student or of other students.

At a minimum, Moody Early Childhood Center shall offer an opportunity for the parent to opt the student out of participation in the examination or screening.

These provisions do not apply to any physical examination or screening that is permitted or required by an applicable state law, including physical examinations or screenings that are permitted without parental notification.

20 U.S.C. 1232h.

The Superintendent or designee shall ensure that the notice regarding legal restrictions on anabolic steroids required by Education Code 38.008 is posted in a conspicuous location in the gymnasium of each school in which there is a grade level of seven or higher and in each other place in a building where physical education classes are conducted.

Specifically, the notice shall state:

Anabolic steroids are for medical use only. State law prohibits possessing, dispensing, delivering, or administering an anabolic steroid in any manner not allowed by state law. State law provides that body building, muscle enhancement, or the increase of muscle bulk or strength through the use of an anabolic steroid or human growth hormone by a person who is in good health is not a valid medical purpose. Only a medical doctor may prescribe an anabolic steroid or human growth hormone for a person. A violation of state law concerning anabolic steroids or human growth hormones is a criminal offense punishable by confinement in jail or imprisonment in the Texas Department of Criminal Justice.

Education Code 38.008.

SEC. 1. WELLNESS

Moody Early Childhood Center shall follow nutrition guidelines that advance student health and reduce childhood obesity and shall promote the general wellness of all students by implementing measurable goals to promote sound nutrition and health through nutrition education, physical activity, and other school-based activities.

SEC. 2. DEVELOPMENT OF LOCAL WELLNESS PLAN

The Superintendent or designee shall appoint a school wellness council (“SWC”) to review and consider evidence-based strategies and techniques and to develop nutrition guidelines and wellness goals as required by law. In developing, implementing, and reviewing the guidelines and goals of the local wellness plan, the SWC will allow participation by parents; students; representatives of Moody Early Childhood Center’s food service provider; Moody Early Childhood Center physical education teachers, campus and/or district-level administrators, and school health professionals; Board members; and community members.

The SWC shall develop a wellness policy to implement Moody Early Childhood Center’s nutrition guidelines and goals. The local wellness plan must address, at a minimum:

1. Strategies for soliciting involvement by and input from individuals interested in the wellness plan and policy;
2. Activities, benchmarks, and objectives for implementing wellness goals;
3. Methods for measuring implementation of wellness goals;
4. Moody Early Childhood Center’s standards for foods and beverages provided (but not sold) to students during the school day and while on campus; and
5. Methods for communicating to the public information about Moody Early Childhood Center’s local wellness plan.

The SWC will review and revise the wellness plan on a regular basis, and recommend revisions to the plan when necessary.

SEC. 3. NUTRITION GUIDELINES

Moody Early Childhood Center’s nutrition guidelines for reimbursable school meals and other foods and beverages sold or marketed to students during the school day will be designed to promote student health and reduce childhood obesity and shall be at least as restrictive as federal regulations and guidance, except when Moody Early Childhood Center allows an exemption for allowable fundraising activities.

Moody Early Childhood Center shall also establish standards for all foods and beverages provided (but not sold) to students during the school day; these standards must be included in the school wellness plan.

SEC. 4. WELLNESS GOALS

a) Nutrition Education

Moody Early Childhood Center shall implement, in accordance with law, a coordinated health program with a nutrition education component and shall use health course curriculum that emphasizes the importance of proper nutrition. This program will encourage participation in the National School Lunch Program, the School Breakfast Program, and any other supplemental nutrition and food programs offered by Moody Early Childhood Center.

Additionally, Moody Early Childhood Center establishes the following goals for nutrition education:

1. Students will receive nutrition education that fosters the adoption and maintenance of healthy eating behaviors.
2. Nutrition education will be a Moody Early Childhood Center-wide priority and will be integrated into other areas of the curriculum, as appropriate.
3. Staff responsible for nutrition education will be adequately prepared and will participate in professional development activities to effectively deliver the program as planned.
4. The food service staff, teachers, and other school personnel will coordinate the promotion of nutrition messages in the cafeteria, the classroom, and other appropriate settings.
5. Educational nutrition information will be shared with families and the general public to positively influence the health of students and community members.

b) Physical Activity

Moody Early Childhood Center shall implement, in accordance with law, a coordinated health program with physical education and physical activity components and shall offer at least the amount of physical activity for all grades required by the Texas Education Code or Commissioner Rule.

In addition, Moody Early Childhood Center establishes the following goals for physical activity:

1. Moody Early Childhood Center will provide an environment that fosters safe and enjoyable fitness activities for all students, including those who are not participating in competitive sports.
2. Physical education classes will regularly emphasize moderate to vigorous activity.
3. Moody Early Childhood Center will encourage teachers to integrate physical activity into the academic curriculum where appropriate.
4. Moody Early Childhood Center will encourage parents to support their children's participation, to be active role models, and to include physical activity in family events.

c) Other School-Based Activities

Moody Early Childhood Center establishes the following goals for creating an environment conducive to healthy nutrition and physical activity and to promote a consistent wellness message to the school community:

1. Moody Early Childhood Center shall allow sufficient time for students to eat meals in facilities that are clean, comfortable, and safe.
2. Moody Early Childhood Center shall promote employee wellness activities and involvement at suitable school activities.

SEC. 5. IMPLEMENTATION

The Superintendent or designee shall oversee the implementation of this policy and the development of the local wellness plan and appropriate administrative procedures related to this wellness policy.

SEC. 6. EVALUATION

Moody Early Childhood Center shall comply with federal requirements for evaluating this policy and the wellness plan. Generally, Moody Early Childhood Center's compliance with the local wellness plan shall be assessed at least once every three years. The Superintendent or designee shall conduct the assessment, which will consider:

1. The extent to which each school is in compliance with the local school wellness policy;
2. The extent to which the local school wellness policy aligns with model local school wellness policies; and
3. A description of the progress made toward attaining the goals described in the local wellness plan.

SEC. 7. PUBLIC NOTIFICATION

Moody Early Childhood Center must annually inform and update the public about the content and implementation of this wellness policy, and make the policy and any updates, along with the local wellness plan and program assessments, available to the public.

SEC. 8. RECORDS RETENTION

Moody Early Childhood Center shall retain all the required records associated with the wellness policy as required by law¹ and Moody Early Childhood Center’s record management program.

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

¹ Moody Early Childhood Center may refer to the Texas Department of Agriculture, Food and Nutrition Division’s “Administrator’s Reference Manual (ARM)” for the School Nutrition Program for guidance on record retention requirements.

SEC. 1. TRANSFERS FOR SCHOOL SAFETY PURPOSES

A parent of a student who becomes a victim of a violent criminal offense, as defined below, or who is assigned to a campus assigned by the Texas Education Agency (“TEA”) as persistently dangerous shall be offered an opportunity to transfer to a safe public or charter school within Moody Early Childhood Center. *Every Student Succeeds Act (ESSA) Section 8532, TEA Unsafe School Choice Option Guidance Handbook.*

For each school safety transfer request, Moody Early Childhood Center shall explore appropriate transfer options. These options may include a transfer agreement with or enrollment in a neighboring school district or, if Moody Early Childhood Center operates more than one campus, a transfer to another Moody Early Childhood Center campus or school that serves the appropriate grade level. *TEA Unsafe School Choice Option Guidance Handbook.*

a) Transfers for Victims of Violent Criminal Offenses

For purposes of this policy, a student is considered to be a victim of a violent criminal offense if the student is a victim of one of the following Penal Code offenses while on the premises of a school or while attending a school-sponsored or school-related activity on or off school property:

- a. Aggravated assault on someone other than a district employee or volunteer;
- b. Aggravated kidnapping;
- c. Aggravated robbery;
- d. Attempted murder;
- e. Continuous sexual abuse of young child or children occurring on school property or while attending a school-sponsored or school-related activity on or off school property;
- f. Indecency with a child; or
- g. Sexual assault or aggravated sexual assault against someone other than a district employee or volunteer.

Within 14 calendar days after a violent criminal offense occurs in or on the grounds of the school the student attends, Moody Early Childhood Center will notify the parent of the student victim of the parent’s right to request a transfer. The parent must then submit a written application for transfer to the Superintendent or designee. The Superintendent or designee will approve or disapprove the request within 14 calendar days after receipt.

A transfer arranged for any student who is the victim of a violent criminal offense will be renewed for as long as the threat to the student exists at the campus from which the student transferred.

For each violent criminal offense, Moody Early Childhood Center shall maintain, for at least five years, documentation reflecting the date and nature of the offense, notice provided to the parent

concerning the transfer option, any submitted transfer application, action taken in response to a transfer application, and other relevant information concerning the offense.

b) Transfers from a Persistently Dangerous School

A parent of a student attending a school identified by TEA as persistently dangerous shall be notified of the parent's right to request a transfer. Such notice shall be provided at least 14 calendar days prior to the start of the school year or, if a student enrolls after the school year begins, upon the student's enrollment.

In order to request a transfer for safety reasons, a parent must submit a written transfer application to the Superintendent or designee. The Superintendent or designee will complete the transfer prior to the start of the school year or, if applicable, within 14 calendar days of the request for a student who enrolls after the school year begins.

A transfer arrangement for a student from a campus identified by the TEA as persistently dangerous will be renewed so long as the campus from which the student transferred remains identified by the TEA as persistently dangerous.

Moody Early Childhood Center shall maintain, in accordance with its adopted record retention schedule and/or the state's record retention schedule for school records, documentation of notice to parents of the transfer options, transfer applications submitted, and actions taken in response to transfer applications. *TEA ESSA Unsafe School Choice Option LEA Requirements (August 22, 2019)*.

Gang-related behavior and hazing shall be prohibited by Moody Early Childhood Center. The consequences for gang-related behaviors and hazing shall be addressed in the Student Code of Conduct.

The Principal or designee shall document and update as needed known or suspected gang-related apparel, gang hand signals, gang signatures, mottoes, graffiti, or persistent gang involvement and activity. The Student Handbook shall include notice to parents and students in this regard.

PART 1: EDUCATION RECORDS

SEC. 1. “EDUCATION RECORDS” DEFINED

For the purposes of this policy, the term “education records” means those records, files, documents, and other materials that contain information directly related to a student and are maintained by Moody Early Childhood Center or by a person acting for Moody Early Childhood Center.

The term “education records” does not include:

1. Records that are created or received by Moody Early Childhood Center after an individual is no longer a student in attendance, and that are not directly related to the individual’s attendance as a student.
2. Records made by Moody Early Childhood Center personnel that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to anyone other than a temporary substitute for the maker of the record.
3. Records maintained by a law enforcement unit of Moody Early Childhood Center that were created by that law enforcement unit for the purpose of law enforcement.
4. Records on a student who is eighteen years of age or older, or who is attending an institution of postsecondary education, that are:
 - a. Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;
 - b. Made, maintained, or used only in connection with treatment of the student; and
 - c. Disclosed only to individuals providing the treatment. For the purpose of this definition, “treatment” does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution.
5. Grades on peer-graded papers before they are collected and recorded by a teacher.

20 U.S.C. 1232g; 34 C.F.R. 99.3.

State and federal law safeguard educational records from unauthorized inspection or use. All information relating to student performance, including grades, test results, and disciplinary records are considered confidential educational records. Release of those records are restricted to parents or guardians; school staff members with a legitimate educational interest; various governmental agencies or in response to a subpoena or court order; or a school to which the student transfers or subsequently enrolls. Release to any other person or agency will occur only with prior written consent of the parent or guardian.

SEC. 2. SCREENING RECORDS

The Principal of each Moody Early Childhood Center campus shall maintain records of screening for special senses and communication disorders, spinal screening, and assessment for type 2 diabetes for each student in Moody Early Childhood Center. Records shall be open for inspection by the state or local health department. The Texas-Mexico Border Health Coordination Office may, directly or through local health departments, enter a school and inspect records relating to assessment for type 2 diabetes. Individual screening records may be transferred among schools in accordance with provisions below concerning “Access by Other Persons.” *20 U.S.C. 1232g; Health and Safety Code 36.006, 37.003, 95.004; 25 TAC 37.145(b).*

SEC. 3. IMMUNIZATION RECORDS

Moody Early Childhood Center shall maintain an individual immunization record during the period of attendance for each student admitted. The records shall be open for inspection at all reasonable times by the Texas Education Agency or by representatives of local health departments or the Texas Department of State Health Services. Moody Early Childhood Center shall cooperate with other districts and schools in transferring students’ immunization records between other schools. Specific approval from students, parents, or guardians is not required prior to making such record transfers. *Education Code 38.002.*

SEC. 4. MEDICAL RECORDS

The parent or guardian of a student is entitled to access to the student’s medical records maintained by Moody Early Childhood Center. On request of a student’s parent or guardian, Moody Early Childhood Center shall provide a copy of the student’s medical records to the parent or guardian. Moody Early Childhood Center may not impose a charge that exceeds the amount authorized by Section 552.261 of the Government Code. *Education Code 38.0095.*

a) Privacy Rule for Non-“Education Records”

To the extent Moody Early Childhood Center is a covered entity under the Health Insurance Portability and Accountability Act (HIPAA), Moody Early Childhood Center must comply with the Privacy Rule, 45 CFR Part 164, with respect to protected health information that is not an education record. *45 C.F.R. 160.103, 164.501.*

SEC. 5. FOOD ALLERGY INFORMATION

Information regarding a child’s food allergy, regardless of how it is received by Moody Early Childhood Center, shall be retained in the child’s student records, but may not be placed in the health record maintained for the child by Moody Early Childhood Center.

a) Exceptions

If Moody Early Childhood Center receives documentation of a food allergy from a physician, that documentation shall be placed in the health record maintained for the child by Moody Early Childhood Center. A registered nurse may enter appropriate notes about a child's possible food allergy in the health record maintained for the child by Moody Early Childhood Center, including a notation that the child's student records indicate that a parent has notified Moody Early Childhood Center of the child's possible food allergy. *Education Code 25.0022(d)–(f)*.

SEC. 6. ASSESSMENT INSTRUMENTS

The results of individual student performance on basic skills assessment instruments or other achievement tests administered by Moody Early Childhood Center are confidential and may be made available only to the student, the student's parent or guardian, and to Moody Early Childhood Center personnel directly involved with the student's educational program. However, overall student performance data shall be aggregated by ethnicity, sex, grade level, subject area, campus, and school system, and made available to the public, with appropriate interpretations, at regularly scheduled Board meetings. The information may not contain the names of individual students or teachers. *Education Code 39.030(b)*.

SEC. 7. ACADEMIC ACHIEVEMENT RECORDS (GRADES 9–12)

Moody Early Childhood Center shall use the academic achievement record (transcript) form adopted by the State Board. This form shall serve as the academic record for each student and shall be maintained permanently by Moody Early Childhood Center. Copies of the record shall be made available to students transferring to another district. The information may be provided to the student or to the receiving district or to both. Moody Early Childhood Center shall respond promptly to all requests for student records from receiving districts. *19 TAC 74.5*.

SEC. 8. ENROLLMENT RECORDS

If a parent or other person with legal control of a child enrolls the child in Moody Early Childhood Center the parent or other person, or district in which the child most recently attended school, shall furnish to Moody Early Childhood Center all of the following:

1. The child's birth certificate, or another document suitable as proof of the child's identity as defined by the Commissioner in the Student Attendance Accounting Handbook.
2. A copy of the child's records from the school the child most recently attended if he or she was previously enrolled in a school in Texas or in another state.

Moody Early Childhood Center must furnish information under items 1 and 2 not later than the tenth working day after the date Moody Early Childhood Center receives a request for the information.

If a parent or other person with legal control of a child under a court order requests that Moody Early Childhood Center transfer a child's student records, Moody Early Childhood Center shall notify the parent or other person as soon as practicable that the parent or other person may request and receive an unofficial copy of the records for delivery in person to a school in another district.

Education Code 25.002.

PART 2: ACCESS, DISCLOSURE, AND AMENDMENT

SEC. 1. DEFINITIONS

a) Attendance

“Attendance” includes, but is not limited to:

1. Attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom; and
2. The period during which a person is working under a work-study program.

b) Disclosure

“Disclosure” means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

c) Parent

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

d) Personally Identifiable Information

“Personally identifiable information” includes, but is not limited to:

1. The student's name;
2. The name of the student's parent or other family members;
3. The address of the student or student's family;
4. A personal identifier, such as the student's biometric record, defined as a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual (e.g., fingerprints, retina and iris patterns, voiceprints, DNA

sequence, facial characteristics, and handwriting); social security number; or student number;

5. Other indirect identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name;
6. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the Moody Early Childhood Center community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
7. Information requested by a person who Moody Early Childhood Center reasonably believes knows the identity of the student to whom the education record relates.

e) Record

“Record” means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audiotape, film, microfilm, and microfiche.

f) Authorized Representative

“Authorized representative” means any entity or individual designated by a state or local educational authority or an agency headed by an official listed in 34 C.F.R. 99.31(a)(3) to conduct—with respect to federal- or state-supported education programs—any audit, evaluation, or any compliance or enforcement activity in connection with federal legal requirements that relate to these programs.

g) Education Program

“Education program” means any program that is principally engaged in the provision of education, including but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education, and adult education, and any program that is administered by an educational agency or institution.

34 C.F.R. 99.3.

h) Signed and Dated Written Consent

“Signed and dated written consent” may include a record and signature in electronic form that:

1. Identifies and authenticates a particular person as the source of the electronic consent; and
2. Indicates such person’s approval of the information contained in the electronic consent.

34 C.F.R. 99.30(d).

SEC. 2. ACCESS BY PARENTS

Access to the education records of a student who is or has been in attendance at Moody Early Childhood Center shall be granted to the parent of the student who is a minor or who is a dependent for tax purposes.

34 C.F.R. 99.10, .31(a)(8).

Moody Early Childhood Center shall presume that a parent has authority to inspect and review the student's records unless it has been provided with evidence that there is a court order, state statute, or legally binding document that specifically revokes these rights. A court may order the custodian of records to delete all references in a child's records to the place of residence of either party appointed as conservator before their release to another party appointed as conservator.

34 C.F.R. 99.4; Family Code 153.012, .073.

SEC. 3. ACCESS BY STUDENT

Whenever a student has attained 18 years of age or is attending an institution of postsecondary education, the rights accorded to, and consent required of, parents transfer from the parents to the student. Nothing in this section prevents Moody Early Childhood Center from disclosing education records, or personally identifiable information from education records, to a parent without prior written consent of an eligible student if the disclosure meets the conditions in 34 C.F.R. 99.31(a), including if the student is a dependent for tax purposes or in the case of a health or safety emergency. *34 C.F.R. 99.5.*

If material in the education record of a student includes information on another student, only the portion of the material relating to the student whose records were requested may be inspected and reviewed. *34 C.F.R. 99.12(a).*

SEC. 4. ACCESS BY OTHER PERSONS

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

a) School Officials

School officials, including teachers, who have legitimate educational interests are authorized to review personally identifiable information in education records. An administrator, nurse, or teacher is entitled to access a student's medical records maintained by Moody Early Childhood Center for reasons determined in Moody Early Childhood Center policy.

A contractor, consultant, volunteer, or other party to whom Moody Early Childhood Center has outsourced institutional services or functions may be considered a school official under this paragraph provided that the outside party:

1. Performs an institutional service or function for which Moody Early Childhood Center would otherwise use employees;
2. Is under the direct control of Moody Early Childhood Center with respect to the use and maintenance of education records; and
3. Is subject to the requirements of 34 CFR 99.33(a) governing the use and redisclosure of personally identifiable information from education records.

Moody Early Childhood Center must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests.

34 C.F.R. 99.31, .36; Education Code 38.009.

b) Officials of Other Schools

Officials of other schools or school systems in which the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer, provided that Moody Early Childhood Center either:

1. Includes in its policies a statement that notifies the parent or student that it forwards education records on request of the other school to such officials; or
2. Makes a reasonable attempt to notify the parent (unless the record transfer is initiated by the parent).

In either case, Moody Early Childhood Center shall furnish a copy of the transferred records to the parent if requested and shall give the parent an opportunity for a hearing to challenge the content of the record.

34 C.F.R. 99.34.

c) Authorized Governmental Representatives

Authorized representatives of the officials or agencies headed by the Comptroller General of the United States, the Attorney General of the United States, the Secretary of Education, or state and local educational authorities who require access to student or other records necessary in connection with the audit and evaluation of federal- or state-supported education programs or in connection with the enforcement of or compliance with federal legal requirements that relate to such programs. *34 C.F.R. 99.35.*

Moody Early Childhood Center may not refuse to report information concerning a student holding an F, J, or M visa on the basis of the Family Educational Rights and Privacy Act

(“FERPA”) and any regulation implementing FERPA. Moody Early Childhood Center is authorized and required to report information that would ordinarily be protected by FERPA only to the extent required by 8 U.S.C. 1372, 8 CFR 214.3, or any corresponding regulation. *8 U.S.C. 1372(c)(2); 8 C.F.R. 214.1(h).*

d) Financial Aid Personnel

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

e) Juvenile Justice Officials

State and local officials to whom such information is specifically allowed to be reported or disclosed by state statute if:

1. The allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve the student whose records are released; and
2. The officials and authorities to whom such information is disclosed certify in writing to Moody Early Childhood Center that the information will not be disclosed to any other party except as provided under state law without the prior written consent of the parent or the student.

The Superintendent or designee shall disclose information contained in a student’s educational records to a juvenile service provider as required by Family Code 58.0051.

Education Code 37.084(a).

f) Organizations Conducting Surveys

Organizations conducting studies for, or on behalf of, Moody Early Childhood Center for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction. Such studies must be conducted so that personal identification of students and their parents will not be revealed to persons other than authorized personnel of the organizations conducting the studies who have legitimate interests in the information. Such information must be destroyed when no longer needed for the original purposes of the studies.

Moody Early Childhood Center must enter into a written agreement with the organization that:

1. Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;
2. Requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement;

3. Requires the organization to conduct the study in a manner that does not permit personal identification of parents and students, as defined in this part, by anyone other than representatives of the organization with legitimate interests; and
4. Requires the organization to destroy or return to Moody Early Childhood Center all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be returned or destroyed.

If Moody Early Childhood Center enters into an agreement with an organization conducting a study, it may redisclose personally identifiable information from education records on behalf of educational agencies and institutions that disclosed the information to Moody Early Childhood Center in accordance with the requirements of 34 C.F.R. 99.33(b).

Moody Early Childhood Center is not required to initiate a study or agree with or endorse the conclusions or results of the study.

g) Accrediting Organizations

Accrediting organizations that require the information for purposes of accreditation.

h) Health & Safety Emergency

Appropriate persons, including the student's parents, who, in an emergency, must have such information in order to protect the health or safety of the student or other person. In making a determination, Moody Early Childhood Center may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If Moody Early Childhood Center determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. *34 C.F.R. 99.36.*

i) Secretary of Agriculture

The Secretary of Agriculture, or authorized representative from the Food and Nutrition Service, for the purposes of conducting program monitoring, evaluations, and performance measurements of schools receiving funding or providing benefits of programs authorized under the National School Lunch Act or the Child Nutrition Act. *20 U.S.C. 1232g(b)(1)(K).*

j) State or Local Child Welfare Agency

An agency caseworker or other representative of a state or local child welfare agency who has the right to access a student's case plan when the agency is legally responsible, in accordance with state law, for the care and protection of the student. *20 U.S.C. 1232g(b)(1)(L).*

k) Directory Information

Any person requesting directory information after Moody Early Childhood Center has given public notice of that definition. *34 C.F.R. 99.37.*

l) Written Consent

The parent shall provide a signed and dated written consent before Moody Early Childhood Center discloses personally identifiable information from a student's education records to any individual, agency, or organization other than the parent, the student, or those listed above. Such consent shall specify records to be released, the reason for such release, and to whom the records are to be released. *34 C.F.R. 99.30.*

SEC. 5. INFORMATION COLLECTION

a) DOE Funded Surveys

No student shall be required, as part of any program funded in whole or in part by the U.S. Department of Education (DOE), to submit to a survey, analysis, or evaluation that reveals information concerning the following topics without the prior consent of the student (if the student is an adult or emancipated minor), or, in the case of an unemancipated minor, without the prior written consent of the parent:

1. Political affiliations or beliefs of the student or the student's parents.
2. Mental and psychological problems of the student or the student's family.
3. Sex behavior and attitudes.
4. Illegal, anti-social, self-incriminating, and demeaning behavior.
5. Critical appraisals of other individuals with whom students have close family relationships.
6. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.
7. Religious practices, affiliations, or beliefs of the student or student's parent.
8. Income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program.

20 U.S.C. 1232h(b).

b) Information Collection Funded by Other Sources

Except as provided by 20 U.S.C. 1232h(a) or (b), as a condition of receiving funds from programs funded in whole or in part by the U.S. DOE Moody Early Childhood Center shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), and

provide for parent notification in accordance with 20 U.S.C. 1232(c)(2). *20 U.S.C. 1232h(c)(1)–(4)*.

SEC. 6. SUBPOENAED RECORDS

Moody Early Childhood Center shall release student records to an entity or persons designated in a subpoena. Moody Early Childhood Center shall not disclose to any person the existence or contents of the subpoena if a court orders Moody Early Childhood Center to refrain from such disclosure. Unless the court or other issuing agency orders Moody Early Childhood Center to refrain from such disclosure or the order is an ex parte court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331, Moody Early Childhood Center shall make a reasonable effort to notify the parents and the student of all such subpoenas in advance of compliance, except when a parent is a party to a court proceeding involving child abuse and neglect or dependency matters, and the order is issued in the context of that proceeding. *20 U.S.C. 1232g(b)(1)(J), (b)(2)(B); 34 C.F.R. 99.31(a)(9)*.

SEC. 7. SEX OFFENDERS

Moody Early Childhood Center may disclose personally identifiable information without consent if the disclosure concerns sex offenders and other individuals required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to Moody Early Childhood Center under 42 U.S.C. 14071 and applicable federal guidelines. *34 C.F.R. 99.31(a)(16)*.

SEC. 8. REQUEST PROCEDURE

Upon request of a properly qualified individual, access to a student's education record shall be granted within a reasonable period of time, not to exceed 45 days. Moody Early Childhood Center shall respond to reasonable requests for explanations and interpretations of the records. *34 C.F.R. 99.10*.

SEC. 9. DESTRUCTION OF RECORDS

Moody Early Childhood Center shall not destroy any education records if there is an outstanding request to inspect and review the records. *34 C.F.R. 99.10(e)*.

SEC. 10. DE-IDENTIFIED RECORDS

Moody Early Childhood Center, or a party that has received education records or information from education records, may release the records or information without the parent's written consent after the removal of all personally identifiable information provided that Moody Early

Childhood Center or other party has made a reasonable determination that a student’s identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information.

a) Education Research

Moody Early Childhood Center, or a party that has received education records or information from education records, may release de-identified student level data from education records for the purpose of education research by attaching a code to each record that may allow the recipient to match information received from the same source, provided that:

1. Moody Early Childhood Center or other party that releases de-identified data under this section does not disclose any information about how it generates and assigns a record code, or that would allow a recipient to identify a student based on a record code;
2. The record code is used for no purpose other than identifying a de-identified record for purposes of education research and cannot be used to ascertain personally identifiable information about a student; and
3. The record code is not based on a student’s social security number or other personal information.

SEC. 11. AUTHENTICATING REQUESTORS’ IDENTITIES

Moody Early Childhood Center must use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom Moody Early Childhood Center discloses personally identifiable information from education records. *34 C.F.R. 99.31(b)–(c)*.

SEC. 12. TRANSFER NOT PERMITTED

Personal information from student education records shall be transferred to a third party only on the condition that such party will not permit any other party to have access to such information without the written consent of the student’s parent. If a third party permits access to information in violation of this policy, Moody Early Childhood Center shall not permit access to information from education records to that third party for a period of not less than five years. *20 U.S.C. 1232g(b)(4)(B); 34 C.F.R. 99.33(a)(1)*.

Moody Early Childhood Center shall inform a party to whom a disclosure is made of the requirements of 34 CFR 99.33, unless the disclosure is made pursuant to a court order, lawfully issued subpoena, or litigation; the disclosed information is directory information; the disclosure concerns sex offenders; or the disclosure is made to a parent of a student who is not an eligible student or to a student. *34 C.F.R. 99.33(c)–(d)*.

Moody Early Childhood Center may disclose personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of Moody Early Childhood Center if:

1. The disclosures meet the requirements of 34 CFR 99.31; and
2. Moody Early Childhood Center has complied with the requirements of 34 CFR 99.32(b) regarding the record of disclosure; or a state or local educational authority or federal official or agency listed requesting information through a subpoena or ex parte order has complied with the requirements of 34 CFR 99.32(b)(2).

34 C.F.R. 99.33(b).

SEC. 13. RECORD OF ACCESS TO STUDENT RECORDS

Each campus shall maintain a record, kept with the education record of each student, that indicates all individuals, agencies, or organizations that have requested or obtained access to a student's education records, as well as the names of state and local educational authorities and federal officials and agencies listed in 34 CFR 99.31(a)(3) that may make further disclosures of personally identifiable information from the student's education records without consent. Moody Early Childhood Center must obtain a copy of the record of further disclosures maintained by the named authorities, officials, and agencies under 34 CFR 99.32(b)(2) and make it available in response to a parent's request to review the record.

Moody Early Childhood Center must record the following information when it discloses personally identifiable information from education records under the health or safety emergency exception (see "Health & Safety Emergency," above):

1. The articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and
2. The parties to whom Moody Early Childhood Center disclosed the information.

34 C.F.R. 99.32.

The records shall include at least the name of the person or agency that made the request and the legitimate interest the person or agency had in the information. The record will be maintained as long as Moody Early Childhood Center maintains the student's education record. The record of access shall be available only to parents, school officials responsible for custody of the records, and those state, local, and federal officials authorized to audit the operation of the system. *20 U.S.C. 1232g(b)(4)(A).*

The record shall not include requests for access by, or access granted to, parents of the student or officials of Moody Early Childhood Center, requests accompanied by prior written consent of the

parent, requests for directory information, or a party seeking or receiving records in accordance with a subpoena or *ex parte* order. *34 C.F.R. 99.32(d)*.

SEC. 14. RIGHT TO AMEND RECORDS

The parent of a student whose records are covered by this policy may ask Moody Early Childhood Center to amend the student’s record if the parent believes it contains information that is inaccurate, misleading, or in violation of the student’s right of privacy or other rights. If Moody Early Childhood Center decides not to amend the education records requested, it shall inform the parent of its decision and his or her right to a hearing to challenge the content of the student’s education records.

If Moody Early Childhood Center decides to amend the records as a result of the hearing, it shall inform the parent in writing. If, as a result of the hearing, Moody Early Childhood Center decides not to amend the records, it shall inform the parent of the right to place a statement in the records commenting on the contested information and/or stating why the parent disagrees with the decision of Moody Early Childhood Center. Any explanation shall be maintained with the contested part of the record for as long as the record is maintained and shall be disclosed whenever the contested portion of the record is disclosed.
34 C.F.R. 99.20–21.

SEC. 15. FEES FOR COPIES

No fee shall be charged to search for or to retrieve the education records of a student. A fee may be charged for copies of education records that are made for the parents or students under this policy provided that the fee does not effectively prevent them from exercising their right to inspect and review those records. Hardship cases shall be dealt with on an individual basis. *20 U.S.C. 1232g; 34 C.F.R. 99.11; Education Code 26.012.*

SEC. 16. RECORDS OF STUDENTS WITH DISABILITIES

Moody Early Childhood Center shall permit parents to inspect and review education records collected, maintained, or used for purposes of identifying, evaluating, placing, or educating students with disabilities. *34 C.F.R. 300.613(a)*.

a) Access Rights

In addition to policies applicable to all student records, the following guidelines shall apply when parents of a student with disabilities request to review or inspect Moody Early Childhood Center records relating to the education of their child:

1. Parents may request that a representative inspect and review the records.

2. Moody Early Childhood Center shall comply with a request without unnecessary delay and before any meeting regarding an individualized education program (“IE”P) or hearing relating to the identification, evaluation, or placement of the child, and in no case longer than 45 days after the request.
3. Moody Early Childhood Center shall keep a record of persons obtaining access to these student records (except access by parents and authorized employees), including name, date of access, and the purpose for which the person is authorized to use the records.

34 CFR 300.613, .614.

b) List of Types and Locations of Information

Moody Early Childhood Center shall provide parents on request a list of types and locations of education records. *34 C.F.R. 300.616.*

c) Parental Consent

Parental consent must be obtained before personally identifiable information is used for any purpose other than meeting a requirement under the Individuals with Disabilities Education Act or disclosed to anyone other than officials of agencies collecting or using this information. Moody Early Childhood Center may not release information from these records without parental consent except as provided in FERPA. *34 C.F.R. 300.622.*

d) Confidentiality

Moody Early Childhood Center shall protect the confidentiality of personally identifiable information in collection, storage, disclosure, and destruction of records. One official in Moody Early Childhood Center shall assume responsibility for ensuring confidentiality of personally identifiable information. All persons collecting or using this information shall receive training or instruction concerning the legal requirements involved in handling these records. Moody Early Childhood Center shall maintain for public inspection a current listing of the names and positions of employees who may have access to this information. *34 C.F.R. 300.623.*

e) Destruction of Information

Moody Early Childhood Center shall inform parents when personally identifiable information collected, maintained, or used to provide special education and related services is no longer needed to provide educational services to the student. Such information shall be destroyed at the request of the parents.

A permanent record of the student’s name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

34 C.F.R. 300.624.

SEC. 17. ANNUAL NOTIFICATION OF RIGHTS

Moody Early Childhood Center shall give parents of students in attendance and eligible students in attendance annual notification of their rights under FERPA. For purposes of FERPA and student information confidentiality under this policy, a student is considered “in attendance” from the time Moody Early Childhood Center receives a completed Lottery Information Form or completed Admissions Application packet from the student or, otherwise, from the time the student first attends classes at Moody Early Childhood Center and is enrolled, until the student withdraws or graduates from Moody Early Childhood Center.

The notice must inform parents or eligible students that they have the right to:

1. Inspect and review the student’s education records;
2. Seek amendment of the student’s education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student’s privacy rights;
3. Consent to disclosures of personally identifiable information contained in the student’s education records, except to the extent that the Act and 34 CFR 99.31 authorize disclosure without consent; and
4. File with the United States Department of Education a complaint under 34 CFR 99.63 and 99.64 concerning alleged failures by Moody Early Childhood Center to comply with the requirements of the Act and 34 CFR part 99.

The notice must include all of the following:

1. The procedure for exercising the right to inspect and review education records.
2. The procedure for requesting amendment of records under 34 CFR 99.20.
3. If Moody Early Childhood Center has a policy of disclosing education records under 34 CFR 99.31(a)(1), a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

Moody Early Childhood Center may provide this notice by any means that are reasonably likely to inform the parents or eligible students of their rights. Moody Early Childhood Center shall effectively notify parents who are disabled and parents of students who have a primary or home language other than English.

20 U.S.C. 1232g(e); 34 C.F.R. 99.7.

SEC. 18. CUSTODIAN OF RECORDS

The Superintendent or designee is designated as the custodian of all student records. The Principal of each campus is designated as an agent of the Superintendent or designee for the purposes of the receipt of requests concerning the disclosure of student records.

SEC. 19. PARENTAL RIGHTS AND STUDENT PRIVACY LOCAL POLICY

As a condition of receiving funds under any applicable program, Moody Early Childhood Center adopts the following policies, pursuant to 20 U.S.C. 1232h(c)(1):

1. Parents have a right to inspect any survey created by a third party before the survey is administered or distributed by Moody Early Childhood Center to the student. Parents should submit such a request to the Principal, and shall be provided an opportunity to inspect the survey within a reasonable period of time as determined by Principal. Upon a parent's request to inspect a survey, the parent's child shall not participate in the survey until the parent has had a reasonable opportunity to inspect the survey, as determined by the Principal.
2. In the event a survey contains the items listed above, and is administered or distributed to students, Moody Early Childhood Center shall comply with FERPA and other applicable law to protect student privacy.
3. Parents have a right to inspect all teaching materials, instructional materials, and other teaching aids used in the classroom of their child, including while participating in virtual or remote learning. Parents should submit such a request to the Principal. The Principal shall provide reasonable access to parents within a reasonable period of time, as determined by the Principal. *Education Code 26.006.*
4. Moody Early Childhood Center may administer physical examinations or other screenings to students as required and/or authorized by state or federal law and in accordance with other applicable policy.
5. Moody Early Childhood Center shall not collect, disclose, or use a student's personal information for the purpose of marketing or selling that information to third parties. This policy does not apply to or restrict the use of personal information collected from students for the purpose of developing, evaluating, or providing educational products or services offered by Moody Early Childhood Center, for or to students or educational institutions, such as recruiters, book clubs, curriculum and instructional materials used by schools, sale by students of products or services to raise funds for school-related or education-related activities, or student recognition programs, or as otherwise required by law. This policy is also subject to state and federal public information laws and FERPA, that makes some student personal information, defined above as Directory Information, public.
6. Parents have a right to inspect any instrument used in collection of personal information, described above, before the instrument is administered to the student. Parents should submit such a request to the Principal. The Principal shall provide reasonable access to parents within a reasonable period of time, as determined by the Principal. Upon a parent's request to inspect such an instrument, the parent's child shall not participate until

the parent has had a reasonable opportunity to inspect the instrument, as determined by the Principal.

The Superintendent or designee shall ensure that parents are provided reasonable notice of the adoption or continued use of these policies. Such notice shall be provided directly to the parents of the students in attendance at Moody Early Childhood Center. At a minimum, Moody Early Childhood Center shall:

1. Provide notice at least annually, at the beginning of the school year and within a reasonable time after any substantive change in the policies; and
2. Offer an opportunity for the parent to opt the student out of participation in an activity described above.

SEC. 20. NOTICE OF SCHEDULED ACTIVITIES

The Superintendent or designee shall ensure that Moody Early Childhood Center directly notifies parents of students, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when activities, described below, are scheduled or expected to be scheduled. The following activities require notification under this section:

1. Activities involving the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information.
2. The administration of any survey containing one or more items described above.
3. Any nonemergency, invasive physical examination or screening that is required as a condition of attendance, administered and scheduled by Moody Early Childhood Center in advance, and not necessary to protect the immediate health and safety of the student or of other students.

PART 3: DIRECTORY INFORMATION

Certain information about students is considered “directory information” and will be released to anyone who follows procedures for requesting it unless the parent, or eligible student objects in writing to its release within ten calendar days of receiving notice of FERPA rights. A parent or eligible student may also choose to opt out of the release of directory information at any time during the school year. At any time after restricting the release of directory information, a parent or eligible student may in writing authorize Moody Early Childhood Center to release directory information. *34 C.F.R. 99.37.*

SEC. 1. DEFINITION

a) School-Related Purposes

Moody Early Childhood Center has designated the following categories of information as directory information for purposes of disclosure relating to school-sponsored/school-affiliated purposes:

1. student's name;
2. address;
3. telephone listing;
4. electronic mail address;
5. photograph (including video image);
6. date and place of birth;
7. major field of study;
8. degrees, honors, and awards received;
9. dates of attendance;
10. grade level;
11. most recent educational institution attended;
12. participation in officially recognized activities and sports; and
13. weight and height of members of athletic teams.

Directory information does not include a student's:

1. Social security number; or
2. Student identification number, unless the student identification number, user identification number, or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number, password, or other factor known or possessed only by the authorized user.

School-sponsored/school-affiliated purposes are those events or activities that Moody Early Childhood Center conducts and/or sponsors to support the educational mission of Moody Early Childhood Center. Examples include, but are not limited to:

1. extracurricular programs or events (e.g., school plays, concerts, athletic events, graduation ceremony);
2. publications (e.g., newsletters, yearbook, etc.);
3. honor roll and other student recognition lists; and
4. marketing materials of Moody Early Childhood Center (e.g., print media, website, videos, newspaper, etc.).

b) Military Recruiters and Institutions of Higher Education

Moody Early Childhood Center has designated the following categories of information as directory information for the purpose of disclosure to military recruiters and institutions of higher education, but only for secondary students:

1. student's name;
2. address;
3. e-mail address; and
4. telephone listing.

c) Law Enforcement Authorities

Moody Early Childhood Center has designated the following categories of information as directory information for purposes of responding to requests for general student information made by law enforcement officials and authorities:

1. student's name;
2. address; and
3. telephone listing.

Moody Early Childhood Center will comply with a request by a military recruiter or an institution of higher education for secondary students' names, addresses, and telephone listings unless a parent or eligible student has advised Moody Early Childhood Center in writing not to release a student's information without prior written consent.

d) Release of Directory Information

Moody Early Childhood Center shall not release directory information except for the purposes indicated above, namely:

1. disclosure relating to school-sponsored/school-affiliated purposes;
2. disclosure to military recruiters and institutions of higher education, but only for secondary students; and
3. disclosure to law enforcement officials and authorities.

As such, there is no directory information available to any persons not meeting the above requirements and purposes.

SEC. 2. IN CLASS

A parent or eligible student may not use the right of refusal to opt out of directory information disclosures to prevent Moody Early Childhood Center from disclosing or requiring a student to disclose the student's name, identifier, or institutional e-mail address in a class in which the student is enrolled.

SEC. 3. FORMER STUDENTS

Moody Early Childhood Center may disclose directory information about former students without satisfying the public notice conditions above. However, Moody Early Childhood Center must continue to honor any valid request to opt out of the disclosure of directory information made while a student was in attendance unless the student rescinds the opt-out request.

SEC. 4. CONFIRMATION OF IDENTITY OR RECORDS

Moody Early Childhood Center may not disclose or confirm directory information without meeting the written consent requirements in 34 CFR 99.30 if a student’s social security number or other non-directory information is used alone or combined with other data elements to identify or help identify the student or the student’s records.

34 C.F.R. 99.3, .37.

PART 4: INFORMATION FROM LAW ENFORCEMENT

SEC. 1. ORAL NOTICE OF ARREST OR REFERRAL

Upon receipt of oral notice from a law enforcement agency that it has arrested a student or referred a student to the juvenile board for a specified offense, the Superintendent shall promptly notify all instructional and support personnel who have responsibility for supervising the student. All personnel shall keep the information received confidential.

SEC. 2. WRITTEN NOTICE OF ARREST OR REFERRAL

Upon subsequent receipt of confidential, written notice of the arrest or referral, the Superintendent or designee may send the information in the confidential notice to a Moody Early Childhood Center employee having direct supervisory responsibility over the student if the Superintendent or designee determines that the employee needs the information for educational purposes or for the protection of the person informed or others.

SEC. 3. ORAL NOTICE OF CONVICTION OR ADJUDICATION

Upon receipt of oral notice from a prosecuting attorney of a student’s conviction, deferred prosecution, or adjudication of a specified offense, including a statement as to whether the student is required to register as a sex offender, the Superintendent shall, within 24 hours of receiving the notice, notify all instructional and support personnel who have regular contact with the student.

SEC. 4. NOTICE OF TRANSFER OR REENROLLMENT

Upon receipt of notice from a parole, probation, or community supervision office having jurisdiction over a student that a student has transferred or reenrolled, the Superintendent shall, within 24 hours of receiving the notice, notify all instructional and support personnel who have regular contact with the student.

A person who receives information described above shall not disclose it except as specifically authorized by Code of Criminal Procedure 15.27.

Required oral or written notice must include all pertinent details of the offense or conduct, including details of any assaultive behavior or other violence; weapons used in the commission of the offense or conduct; or weapons possessed during the commission of the offense or conduct.

Information received by Moody Early Childhood Center under this provision shall not be attached to the permanent academic file of the student who is the subject of the report. Moody Early Childhood Center shall destroy the information at the end of the academic year in which the report was filed.

SEC. 5. DUTY TO FLAG RECORDS

Upon receipt of notification from a law enforcement agency or the missing children and missing persons information clearinghouse that a child under 11 years of age who attended or who is enrolled in Moody Early Childhood Center is missing, Moody Early Childhood Center shall flag the child's records and maintain the records in its possession so that on receipt of a request regarding the child, Moody Early Childhood Center will be able to notify law enforcement or the missing children and missing persons information clearinghouse that a request for a flagged record has been made.

a) Request in Person

When a request for a flagged record is made in person, Moody Early Childhood Center may not advise the requesting party that the request concerns a missing child and shall:

1. Require the person requesting the flagged record to complete a form stating the person's name, address, telephone number, and relationship to the child for whom a request is made, and the name, address, and birth date of the child;
2. Obtain a copy of the requesting party's driver's license or other photographic identification, if possible;
3. If the request is for a birth certificate, inform the requesting party that a copy of a certificate will be sent by mail; and
4. Immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and include a physical description of the requesting party, the

identity and address of the requesting party, and a copy of the requesting party's driver's license or other photographic identification.

After providing the information listed above, Moody Early Childhood Center shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

b) Request in Writing

When a request for a flagged record is made in writing, Moody Early Childhood Center may not advise the requesting party that the request concerns a missing child and shall immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and provide to the law enforcement agency a copy of the written request. After providing the notification, Moody Early Childhood Center shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

c) Removal of Flag

On the return of a missing child under 11 years of age, the law enforcement agency shall notify each school that has maintained flagged records for the child that the child is no longer missing. On receipt of this notification, Moody Early Childhood Center shall remove the flag from the records.

A school that has reason to believe that a missing child has been recovered may request confirmation that the missing child has been recovered from the appropriate law enforcement agency or the missing children and missing persons information clearing-house. If a response is not received after the 45th day after the date of the request for confirmation, Moody Early Childhood Center may remove the flag from the record and shall inform the law enforcement agency or the missing children and missing persons information clearing-house that the flag has been removed.

Code of Criminal Procedure 63.020-.022.

Moody Early Childhood Center shall participate in an electronic student records system that satisfies standards approved by the Commissioner.

The electronic student records system must permit an authorized state or Moody Early Childhood Center official to electronically transfer to and from an educational institution in which the student is enrolled and retrieve student transcripts, including information concerning a student's:

1. Course or grade completion;
2. Teachers of record;
3. Assessment instrument results;
4. Receipt of special education services, including placement in a special education program and the individualized education program developed; and
5. Personal graduation plan as described by Education Code 28.0212 or 28.02121, as applicable.

Any person involved in the transfer and retrieval of student information is subject to any state or federal law governing the release of or providing access to any confidential information to the same extent as the educational institution from which the data is collected. A person may not release or distribute the data to any other person in a form that contains confidential information.

Education Code 7.010.

SEC. 1. PURPOSE

Moody Early Childhood Center’s dress and grooming standards are designed to teach grooming and hygiene, prevent disruption, minimize safety hazards, and provide a dress standard that offers flexibility for the parent and student. Students must come to school cleanly and neatly groomed and wearing clothing that will not be a health or safety hazard to the student or others, and that will not distract from or interfere with the educational atmosphere of the school.

SEC. 2. GENERAL GUIDELINES

The Superintendent or designee shall establish dress and grooming standards for all students. Violations of dress and grooming standards shall be described in the Student Code of Conduct. Principals may, at their discretion, impose additional reasonable dress and grooming standards.

SEC. 3. EXTRACURRICULAR ACTIVITIES

Principals, in cooperation with the sponsor, coach, or other person in charge of an extracurricular activity, may regulate the dress and grooming of students who participate in the activity. Students who violate dress and grooming standards established for such an activity may be removed or excluded from the activity for a period determined by the Principal or sponsor and may be subject to other disciplinary action, as specified in the Student Code of Conduct.

SEC. 4. UNIFORMS

If the Board determines that requiring school uniforms would improve the learning environment at Moody Early Childhood Center, the Board may adopt rules that require students at that school to wear school uniforms. Students shall wear uniforms beginning on the 90th day after the date on which the Board adopts the rules.

a) Funding

The rules adopted by the Board must designate a source of funding to be used to provide uniforms for educationally disadvantaged students.

b) Exemptions

A parent or guardian of a student assigned to a school where uniforms are required may choose for the student to be exempted from the uniform requirement. In order to exercise this option, the parent or guardian must provide a written statement that states a religious or philosophical objection to the uniform requirement that the Board determines is bona fide.

A parent or other person who has the duty of control and reasonable discipline of a child is liable for any property damage proximately caused by:

1. The negligent conduct of the child if the conduct is reasonably attributable to the negligent failure of the parent or other person to exercise that duty; or
2. The willful and malicious conduct of a child who is at least ten years of age but under 18 years of age.

Family Code 41.001.

SEC. 1. PERSONAL USE

a) Telecommunications Devices

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

Disciplinary consequences for violating Moody Early Childhood Center’s guidelines concerning student possession of electronic devices will be in accordance with the Student Code of Conduct.

b) Confiscation of Electronic Devices

An authorized Moody Early Childhood Center employee may confiscate a personal telecommunications device, including a mobile telephone, used in violation of applicable campus rules.

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

If a personal telecommunications device is not retrieved, Moody Early Childhood Center shall dispose of the device after providing notice required by law.

Moody Early Childhood Center will not be responsible for damage to or loss or theft of confiscated items.

c) Other Electronic Devices

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

d) No Responsibility for Devices

Moody Early Childhood Center is not responsible for any damaged, lost, or stolen personal device.

SEC. 2. INSTRUCTIONAL USE

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

Each student is expected to respect the rights and privileges of other students, teachers, and Moody Early Childhood Center staff. All teachers, administrators, and other Moody Early Childhood Center personnel are expected to respect the rights and privileges of students.

SEC. 1. STUDENT HANDBOOK

The Superintendent or designee shall develop student handbooks with information on curriculum, grading, extracurricular activities, and other such topics that students and parents are likely to need during the school year. The Superintendent or designee shall ensure that no student handbook information is in conflict with policy or the Student Code of Conduct. In case of conflict between a Board policy or the Student Code of Conduct and provisions of student handbooks, policy and/or the Student Code of Conduct shall prevail.

SEC. 2. DISTRIBUTION

Student handbooks shall be made available on the Moody Early Childhood Center website at the beginning of the school year; hard copy shall be provided upon request. Amendments to the Student Handbook shall be communicated promptly to students and parents.

**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
MANUAL**

**POLICY GROUP 3 – STUDENTS
MARRIED AND PREGNANT STUDENTS**

PG-3.29

SEC. 1. MARRIED STUDENTS

Married students have the same rights and responsibilities as unmarried students. This includes the right to participate in any extracurricular activities on the same basis, and subject to the same requirements, as unmarried students.

If Moody Early Childhood Center receives federal funds, it shall not apply any rule concerning a student's actual or potential marital status that treats students differently on the basis of sex. *20 U.S.C. 1681; 34 CFR 106.40.*

Except as expressly provided by law, a student who has been married in accordance with Texas law has the capacity and power of an adult, regardless of age. *Family Code 1.104.*

SEC. 2. PREGNANT STUDENTS

Moody Early Childhood Center shall not discriminate against any student or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of the student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of Moody Early Childhood Center's program or activity.

Pregnant students have the right to continue their education during pregnancy and may choose to exercise that right by:

1. Remaining in the regular school program.
2. Participating in any other special program Moody Early Childhood Center may provide for pregnant students.

The student may also choose to request a leave of absence. Such request shall be accompanied by a licensed physician's certification that the leave is a medical necessity. Students who avail themselves of this option are exempt from compulsory attendance during the period certified by the physician as necessary for the leave of absence.

Moody Early Childhood Center may require such a student to obtain the certification of a physician that the student is physically and emotionally able to continue participation in the normal education program or activity so long as such certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

SEC. 1. GUIDING PRINCIPLES

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

a) Informal Process

Moody Early Childhood Center encourages students and parents to discuss their complaints or grievances with the appropriate teacher, principal, or other campus administrator who has the authority to address the concerns. Concerns and complaints should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

b) Grievance Procedures

The Superintendent or designee shall develop a detailed grievance process; this process shall recognize the Board’s final authority to hear or decide parent and student grievances. The grievance process shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or “mini-trial” at any level.

The Superintendent or designee shall ensure that the detailed grievance process is made available to students and parents through the Student Handbook.

c) Board Consideration of Student and Parent Grievances

The Board shall retain final authority to hear or decide parent and student grievances. *19 TAC 100.1033(b)(14)(C)(i)*.

The Board may conduct a closed meeting when hearing or deciding a parent or student grievance as allowed by applicable law. *Gov’t Code Ch. 551, Subch. D*.

d) Freedom from Retaliation

Neither the Board nor any Moody Early Childhood Center employee shall unlawfully retaliate against any student or parent for bringing a concern or complaint.

SEC. 1. AUTHORIZED FEES

Moody Early Childhood Center may require payment of:

1. Fees for materials used in any program in which the resultant product is in excess of minimum requirements and, at the student’s option, becomes the personal property of the student. Fees may not exceed the cost of materials.
2. Membership dues in student organizations or clubs, and admission fees or charges for attending extracurricular activities when membership or attendance is voluntary.
3. Security deposits for the return of materials, supplies, or equipment.
4. Fees for personal physical education and athletic equipment and apparel. However, any student may provide his or her own equipment or apparel if it meets reasonable requirements and standards relating to health and safety established by the Board.
5. Fees for items of personal use or products that a student may purchase at the student’s option, such as student publications, class rings, annuals, and graduation announcements.
6. Fees specifically permitted by any other statute.
7. Fees for an authorized, voluntary student health and accident benefit plan.
8. A reasonable fee, not to exceed the actual annual maintenance cost, for the use of musical instruments and uniforms owned or rented by Moody Early Childhood Center.
9. Fees for items of personal apparel that become the property of the student and that are used in extracurricular activities.
10. Parking fees and fees for identification cards.
11. Fees for driver training courses, provided that such fees shall not exceed the actual Moody Early Childhood Center cost per student in such programs for the current school year.
12. Fees for courses offered for credit that require the use of facilities not available on the school premises or the employment of an educator who is not part of the school’s regular staff, if participation in the course is at the student’s option.
13. Fees for courses offered during summer school, except that the Board may charge a fee for a course required for graduation only if the course is also offered without a fee during the regular school term.
14. A reasonable fee for transportation of a student who lives within two miles of the school the student attends to and from that school, except that the Board may not charge a fee for transportation for which Moody Early Childhood Center receives funds under Education Code 48.151(d).
15. A reasonable fee, not to exceed \$50, for costs associated with an educational program offered outside of regular school hours through which a student who was absent from class receives instruction voluntarily for the purpose of making up the missed instruction and meeting the level of attendance required under Education Code 25.092.
16. If Moody Early Childhood Center does not receive any funds under Section 48.151 and does not participate in a county transportation system for which an allotment is provided under Section 48.151(i), a reasonable fee for the transportation of a student to and from the school the student attends.

17. A fee for enrollment in an electronic course provided through the Texas Virtual School Network (TxVSN) in accordance with Education Code 30A.155.

Education Code 11.158, 30A.155.

SEC. 2. PROHIBITED FEES

Moody Early Childhood Center may not charge fees for:

1. Instructional materials, workbooks, laboratory supplies, or other supplies necessary for participation in any instructional course except as authorized under the Education Code.
2. Field trips required as part of a basic educational program or course.
3. Any specific form of dress necessary for any required educational program or diplomas.
4. Instructional costs for necessary school personnel employed in any course or educational program required for graduation.
5. Library materials required to be used for any educational course or program. However, fines may be assessed for lost, damaged, or overdue materials.
6. Admission to any activity the student is required to attend as a prerequisite to graduation.
7. Admission or examination in any required educational course or program.
8. Lockers.

Education Code 11.158(b).

SEC. 3. PERSONAL SUPPLIES

Students may be required to furnish personal or consumable items, including pencils, paper, pens, erasers, and notebooks. Students may be required to furnish school uniforms, subject to the provisions of Education Code 11.162 regarding educationally disadvantaged students. *Education Code 11.158(c)*

SEC. 4. WAIVER OF FEES

Moody Early Childhood Center shall adopt reasonable procedures for waiving a deposit or fee if a student or the student’s parent or guardian is unable to pay it. This policy shall be posted in a central location in each school facility, in the school policy manual, and in the student handbook. *Education Code 11.158(f).*

SEC. 5. POST-SECONDARY INSTRUCTIONAL PROGRAMS

The Board may charge reasonable fees for goods and services provided in connection with any postsecondary instructional program, including career and technology, adult, veterans, or continuing education, community service, evening school, and high school equivalency programs. *Education Code 11.158(b)-(c), (e)-(g).*

SEC. 6. DISSEMINATION OF FEE SCHEDULE

The Superintendent or designee shall ensure that the Student Fee Schedule is provided, as appropriate, to all students and parents.

SEC. 1. SCHOOL-SPONSORED PUBLICATIONS

All publications edited, printed, or distributed in the name of or within the Moody Early Childhood Center system shall be under the control of the school administration and the Board.

All school-sponsored publications approved by Moody Early Childhood Center that contain student work and/or are published by students at an individual campus shall be part of the instructional program, under the supervision of a faculty sponsor, and shall be carefully edited to reflect the ideals and expectations of the citizens of the school's geographical area for their schools. The Principal shall be responsible for all matters pertaining to the organization, issuance, and sale of such publications and any other publication procedure, subject to the Superintendent's approval.

Expression in a school-sponsored publication is prohibited when the material:

1. Advertises or promotes any product or service not permitted for minors by law;
2. Associates Moody Early Childhood Center with any position other than neutrality on matters of political controversy;
3. Does not meet the standards of the educators who supervise the production of the publication;
4. Encourages students to commit illegal acts;
5. Encourages students to violate the Moody Early Childhood Center Student Code of Conduct;
6. Expresses or advocates sexual, racial, or religious harassment or violence or prejudice;
7. Impinges on the rights of other students;
8. Invades the privacy of others;
9. Is distributed or displayed in violation of time, place, and manner regulations;
10. Is inappropriate for the level of maturity of the readers;
11. Is libelous or slanderous;
12. Is obscene to minors;
13. Is vulgar or profane;
14. Might reasonably be perceived to advocate drug or alcohol use, irresponsible sex, or conduct otherwise inconsistent with the shared values of a civilized social order;
15. Substantially disrupts the orderly operation of school or school activities; or
16. Would substantially interfere with the work of Moody Early Childhood Center.

Expression in official school publications is subject to editorial control by Moody Early Childhood Center over style and content so long as Moody Early Childhood Center's actions are reasonably related to legitimate educational/pedagogical concerns. These may include, but are not limited to:

1. Assuring that participants learn whatever lessons the activity is designed to teach;

2. Assuring that readers or listeners are not exposed to material that may be inappropriate for their level of maturity;
3. Assuring that the views of the individual speaker are not erroneously attributed to Moody Early Childhood Center;
4. Assuring that Moody Early Childhood Center is not associated with any position other than neutrality on matters of political controversy;
5. Assuring that student speech cannot reasonably be perceived to advocate conduct otherwise inconsistent with the shared values of a civilized social order; and
6. Assuring that Moody Early Childhood Center is not associated with expression that is, for example, ungrammatical, poorly written, inadequately researched, biased or prejudiced, vulgar or profane, or unsuitable for immature audiences.

SEC. 2. ADVERTISING

Advertising in individual school publications may be accepted from bona fide business firms, subject to the approval of professional employees exercising editorial supervision over the publications. Advertising deemed inappropriate for student readers or that advertises products presenting a health hazard, such as alcohol or tobacco products, shall not be accepted.

SEC. 3. COMPLAINTS

Students who have a complaint regarding the procedures or a professional decision affecting the content or style of a school-sponsored publication shall present that complaint in accordance with Board Policy (Parent and Student Complaints and Grievances).

SEC. 1. DISTRIBUTION OF NON-SCHOOL LITERATURE

Written or printed materials, handbills, photographs, pictures, films, tapes, or other visual or auditory materials not sponsored by Moody Early Childhood Center or by a Moody Early Childhood Center-affiliated school-support organization shall not be sold, circulated, distributed, or posted on any Moody Early Childhood Center premises by any Moody Early Childhood Center student, except in accordance with this policy.

Moody Early Childhood Center does not endorse, and shall not be responsible for, the contents of any non-school literature distributed by students.

For purposes of this policy, “distribution” means the circulation of more than ten printed copies of material from a source other than Moody Early Childhood Center.

Each school campus shall designate an area where materials that have been approved for distribution by students in accordance with this policy may be made available or distributed. The Superintendent may develop reasonable time, place, and manner restrictions regarding the distribution of materials at designated areas.

SEC. 2. PRIOR REVIEW

All non-school literature intended for distribution by students under this policy shall be submitted to the Principal or designee for prior review according to the following procedures:

1. Materials shall include the name of the person or organization sponsoring the distribution.
2. Using the standards below at “Limitations on Content,” the Principal or designee shall approve or reject submitted materials within three school days from the time the materials were received.

Each Principal shall designate times, locations, and means by which non-school literature that is appropriate for distribution may be made available or distributed by students at the campus.

SEC. 3. POLICY VIOLATIONS

Failure to comply with this policy shall result in appropriate administrative action, including but not limited to confiscation of non-approved materials, suspension of a student group’s use of Moody Early Childhood Center facilities, and/or other disciplinary action in accordance with the Student Code of Conduct.

SEC. 4. LIMITATIONS ON CONTENT

Non-school literature shall not be distributed by students on Moody Early Childhood Center property if:

1. The distribution of such materials would violate the intellectual property rights, privacy rights, or other rights of another person.
2. The materials advocate imminent lawless or disruptive action and are likely to incite or produce such action.
3. The materials are hate literature or similar publications that scurrilously attack ethnic, religious, or racial groups or contain content aimed at creating hostility and violence; and the materials would materially and substantially interfere with school activities or the rights of others.
4. The materials are obscene, vulgar, or otherwise inappropriate for the age and maturity of the audience.
5. The materials contain defamatory statements about public figures or others.
6. The materials endorse actions endangering the health or safety of students.
7. The materials promote illegal use of drugs, alcohol, or other controlled substances.
8. There is reasonable cause to believe that distribution of the non-school literature would result in material and substantial interference with school activities or the rights of others. Moody Early Childhood Center may not demonstrate reasonable cause to believe that the expression would engender material and substantial interferences solely because other students, teachers, administrators, or parents may disagree with its content.

SEC. 5. APPEALS

Administrative decisions regarding this policy may be appealed in accordance with Board Policy (Parent and Student Complaints and Grievances).

SEC. 1. APPLICABILITY OF UIL RULES AND SCHOOL POLICIES

A student enrolled in Moody Early Childhood Center who participates in an extracurricular activity or a University Interscholastic League (“UIL”) competition is subject to Moody Early Childhood Center policy and UIL rules regarding participation only when the student is under the direct supervision of a Moody Early Childhood Center employee or at any other time specified by resolution of the Board. *Education Code 33.081(b)*.

a) *UIL Forms*

Each student participating in an extracurricular athletic activity must complete the UIL forms entitled “Preparticipation Physical Evaluation — Medical History” and “Acknowledgement of Rules.” Each form must be signed by both the student and the student’s parent or guardian. *Education Code 33.203(a)*.

If Moody Early Childhood Center offers an extracurricular athletic activity, it shall:

1. Prominently display at its administrative offices the telephone number and electronic mail address that the Commissioner maintains for reporting violations of Education Code Chapter 33, Subchapter F; and
2. Provide each student participant and the student’s parent or guardian a copy of the text of Education Code 33.201–33.207 and a copy of the UIL’s parent information manual. The document may be provided in an electronic format unless otherwise requested by a student, parent, or guardian.

Education Code 33.207(b), .208.

b) *Safety Training*

The UIL shall provide training to students participating in an extracurricular athletic activity related to:

1. Recognizing the symptoms of potentially catastrophic injuries, including head and neck injuries, concussions, injuries related to second impact syndrome, asthma attacks, heatstroke, cardiac arrest, and injuries requiring use of a defibrillator; and
2. The risks of using dietary supplements designed to enhance or marketed as enhancing athletic performance.

The training must be conducted by the UIL or by another organization as determined by the UIL, including the American Red Cross, the American Heart Association, or a similar organization. *Education Code 33.202(d)–(e)*.

i. Records

The Superintendent shall maintain complete and accurate records of Moody Early Childhood Center's compliance with Education Code 33.202, and Moody Early Childhood Center shall make available to the public proof of compliance for each person enrolled in, employed by, or volunteering for Moody Early Childhood Center who is required to receive safety training described by Education Code 33.202.

A campus that is determined by the Superintendent to be out of compliance with the safety training requirements or the requirements regarding unsafe practices and safety precautions (see below) shall be subject to the range of penalties determined by the UIL.

Education Code 33.206.

*c) **Safety Precautions***

A coach, trainer, or sponsor of an extracurricular athletic activity may not encourage or permit a student participant to engage in any unreasonably dangerous athletic technique that unnecessarily endangers the health of a student, including using a helmet or any other sports equipment as a weapon. *Education Code 33.204.*

A coach, trainer, or sponsor for an extracurricular athletic activity shall at each athletic practice or competition ensure that:

1. Each student participant is adequately hydrated;
2. Any prescribed asthma medication for a student participant is readily available to the student;
3. Emergency lanes providing access to the practice or competition area are open and clear; and
4. Heatstroke prevention materials are readily available.

If a student participating in an extracurricular athletic activity, including a practice or competition, becomes unconscious during the activity, the student may not:

1. Return to the activity during which the student became unconscious; or
2. Participate in any extracurricular athletic activity until the student receives written authorization for such participation from a physician.

Education Code 33.205.

d) Prevention, Treatment, and Oversight of Concussions

i. Concussion Oversight Team

If students participate in interscholastic athletic activity, the Board shall appoint or approve a concussion oversight team. *Education Code 38.153(a)*.

Each concussion oversight team must include at least one physician and, to the greatest extent practicable, considering factors including the population of the metropolitan statistical area in which Moody Early Childhood Center is located, Moody Early Childhood Center enrollment, and the availability of and access to licensed health-care professionals, must also include one or more of the following: an athletic trainer, an advanced practice nurse, a neuropsychologist, or a physician assistant. If Moody Early Childhood Center employs an athletic trainer, the athletic trainer must be a member of the concussion oversight team. If Moody Early Childhood Center employs a school nurse, the school nurse may be a member of the concussion oversight team if requested by the school nurse.

Each member of the concussion oversight team must have had training in the evaluation, treatment, and oversight of concussions at the time of appointment or approval as a member of the concussion oversight team. The members also must take a training course approved by the UIL, the Texas Department of Licensing and Regulation, or another appropriate licensing agency at least once every two years and submit proof of timely completion to the Superintendent or designee in accordance with Education Code 38.158.

Education Code 38.154, .158.

ii. Return-to-Play Protocol

Each concussion oversight team shall establish a return-to-play protocol, based on peer-reviewed scientific evidence, for a student's return to interscholastic athletics practice or competition following the force or impact believed to have caused a concussion. *Education Code 38.153(b)*.

iii. Removal from Play

A student shall be removed from an interscholastic athletics practice or competition immediately if one of the following persons believes the student might have sustained a concussion during the practice or competition: a coach; a physician; a licensed healthcare professional, as defined by Education Code 38.151(5); a licensed chiropractor; a school nurse; or the student's parent or guardian or another person with legal authority to make medical decisions for the student. *Education Code 38.156.*

iv. Required Annual Form

A student may not participate in an interscholastic athletic activity for a school year until both the student and the student's parent or guardian or another person with legal authority to make medical decisions for the student have signed a form for that school year that acknowledges receiving and reading written information that explains concussion prevention, symptoms, treatment, and oversight and that includes guidelines for safely resuming participation in an athletic activity following a concussion. The form must be approved by the UIL. *Education Code 38.155.*

A student shall be removed from an interscholastic athletics practice or competition immediately if one of the following persons believes the student might have sustained a concussion during the practice or competition: a coach; a physician; a licensed health care professional, as defined by Education Code 38.151(5); a person licensed under Chapter 201, Occupations Code; a school nurse; or the student's parent or guardian or another person with legal authority to make medical decisions for the student. *Education Code 38.156.*

v. Return to Play

A student removed from an interscholastic athletics practice or competition under Education Code 38.156 may not be permitted to practice or compete again following the force or impact believed to have caused the concussion until:

1. The student has been evaluated, using established medical protocols based on peer-reviewed scientific evidence, by a treating physician chosen by the student or the student's parent or guardian or another person with legal authority to make medical decisions for the student;
2. The student has successfully completed each requirement of the return-to-play protocol established under Education Code 38.153 necessary for the student to return to play;
3. The treating physician has provided a written statement indicating that, in the physician's professional judgment, it is safe for the student to return to play; and
4. The student and the student's parent or guardian or another person with legal authority to make medical decisions for the student have acknowledged that the student has completed the requirements of the return-to-play protocol necessary for the student to return to play, have provided the treating physician's written statement to the person responsible for compliance with the return-to-play protocol and the person who has supervisory responsibilities, and have signed a consent form indicating that the person signing:
 - a. Has been informed concerning and consents to the student participating in returning to play in accordance with the return-to-play protocol;
 - b. Understands the risks associated with the student returning to play and will comply with any ongoing requirements in the return-to-play protocol;

- c. Consents to the disclosure to appropriate persons, consistent with the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, of the treating physician’s written statement and, if any, the return-to-play recommendations of the treating physician; and
- d. Understands the immunity provisions under Education Code 38.159.

A coach of an interscholastic athletics team may not authorize a student’s return to play.

The Superintendent or designee shall supervise an athletic trainer or other person responsible for compliance with the return-to-play protocol. The person who has supervisory responsibilities may not be a coach of an interscholastic athletics team.

Education Code 38.157.

e) Participation in UIL Activities by Students Receiving Outpatient Mental Health Students

Moody Early Childhood Center may not adopt or enforce policies that restrict participation in UIL activities by a student based solely on:

1. A student receiving outpatient mental health services from a mental health facility, as defined by Health and Safety Code 571.003; or
2. A student’s absence during instructional time while receiving outpatient mental health services from a mental health facility, as defined by Health and Safety Code 571.003.

This requirement does not exempt a student to whom this section applies from any other eligibility requirements for participation in UIL activities.

Education Code 33.0832.

f) Participation in UIL Activities by Homeschool Students

Except as provided in this section, Moody Early Childhood Center may provide a non-enrolled student who is homeschooled, as described by Education Code 29.916(a)(1), and who otherwise meets UIL eligibility standards, with an opportunity to participate in the UIL activity on behalf of Moody Early Childhood Center in the same manner as Moody Early Childhood Center provides the opportunity to participate to students enrolled in Moody Early Childhood Center.

A non-enrolled student who is homeschooled who seeks to participate in a UIL activity on behalf of Moody Early Childhood Center is subject to the following relevant policies that apply to students enrolled in Moody Early Childhood Center:

1. Registration for UIL activities;

2. Age eligibility;
3. Fees;
4. Insurance;
5. Transportation;
6. Physical condition;
7. Qualifications;
8. Responsibilities;
9. Event schedules;
10. Standards of behavior; and
11. Performance.

A non-enrolled student who is homeschooled may only participate in a UIL activity on behalf of Moody Early Childhood Center only if the student would be eligible to attend Moody Early Childhood Center based on the student's residential address. The non-enrolled student must establish minimum proof of residence acceptable to Moody Early Childhood Center in the same manner as an applicant to attend Moody Early Childhood Center.

The parent or person standing in parental relation to a non-enrolled student who is homeschooled is responsible for oversight of academic standards relating to the student's participation in a UIL activity.

As a condition of eligibility to participate in a UIL activity during the first six weeks of a school year, a non-enrolled student who is homeschooled must demonstrate grade-level academic proficiency on any nationally recognized, norm-referenced assessment instrument, such as the Iowa Test of Basic Skills, Stanford Achievement Test, California Achievement Test, or Comprehensive Test of Basic Skills. A non-enrolled student demonstrates the required academic proficiency by achieving a composite, core, or survey score that is within the average or higher than average range of scores, as established by the applicable testing service. For purposes of this paragraph, Moody Early Childhood Center shall accept assessment results administered or reported by a third party. A non-enrolled student's demonstration of academic proficiency under this paragraph is sufficient for the school year in which the student achieves the required score and the subsequent school year.

After the first six weeks of a school year, the parent or person standing in parental relation to a non-enrolled student participating in a UIL activity on behalf of Moody Early Childhood Center must periodically, and in accordance with Moody Early Childhood Center's grading calendar, provide written verification to Moody Early Childhood Center indicating that the student is receiving a passing grade in each course or subject being taught.

A non-enrolled student is not authorized to participate in a UIL activity on behalf of Moody Early Childhood Center during the remainder of any school year during which the student was previously enrolled in a public school.

A non-enrolled student who participates in a UIL activity on behalf of Moody Early Childhood Center is subject to the immunization requirements and exceptions of Education Code 38.001 in the same manner as a public school student.

Education Code 33.0832.

SEC. 2. CARDIAC ASSESSMENT OF HIGH SCHOOL PARTICIPANTS IN EXTRACURRICULAR ATHLETIC ACTIVITIES

To the extent required by the UIL, Moody Early Childhood Center will provide a student who is required under UIL rule or policy to receive a physical examination before being allowed to participate in an athletic activity sponsored or sanctioned by the UIL information about sudden cardiac arrest and electrocardiogram testing and notification of the option of the student to request the administration of an electrocardiogram in addition to the physical examination.

A student may request an electrocardiogram from any health professional, including a health care professional provided through a health care professional chosen by the parent or person standing in parental relation to the student, provided the health care professional is:

1. Appropriately licensed in Texas; and
2. Authorized to administer an interpret electrocardiograms under the health care professional's scope of practice, as established by the health care professional's Texas licensing act.

This section does not create a cause of action or liability or a standard of care, obligation, or duty that provides a basis for a cause of action or liability against a health care professional, the UIL, or a Moody Early Childhood Center employee or officer for:

1. The injury or death of a student participating in or practicing for an athletic activity sponsored or sanctioned by the UIL based on or in connection with the administration or interpretation of or reliance on an electrocardiogram; or
2. The content or distribution of the information required under this section or the failure to distribute the required information under this section.

Education Code 33.096.

SEC. 3. MILITARY DEPENDENTS

Moody Early Childhood Center shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified. *Education Code 162.002 art. VI, § B.*

SEC. 4. SUSPENSION FROM EXTRACURRICULAR ACTIVITIES

A student shall be suspended from participation in any extracurricular activity sponsored or sanctioned by Moody Early Childhood Center or the UIL after a grade evaluation period in which the student received a grade lower than the equivalent of 70 on a scale of 100 in any academic class other than a course described below at “Exempt Courses.”

a) Length of Suspension

A suspension continues for at least three school weeks and is not removed during the school year until the conditions of Education Code 33.081(d) are met. A suspension shall not last beyond the end of a school year.

b) Grade Evaluation Period

“Grade evaluation period” means:

1. The six-week grade reporting period; or
2. The first six weeks of a semester and each grade reporting period thereafter, in the case of a district with a grade reporting period longer than six weeks.

Education Code 33.081(c).

c) School Week

For purposes of this policy, the school week is defined as beginning at 12:01 a.m. on the first instructional day of the calendar week and ending at the close of instruction on the last instructional day of the calendar week, excluding holidays. *19 TAC 76.1001(b).*

d) Exempt Courses

The suspension and reinstatement provisions of Education Code 33.081(c) and (d) do not apply to an advanced placement or international baccalaureate course, or to an honors or dual credit course in the subject areas of English language arts, mathematics, science, social studies, economics, or a language other than English.

The following are honors classes for purposes of eligibility to participate in extracurricular activities:

1. All College Board Advanced Placement courses and International Baccalaureate courses in all disciplines;
2. English language arts: high school/college concurrent enrollment classes that are included in the “Lower-Division Academic Course Guide Manual (Approved Courses)”;

3. Languages other than English: high school/college concurrent enrollment classes that are included in the “Lower-Division Academic Course Guide Manual (Approved Courses)” and languages other than English courses Levels IV–VII;
4. Mathematics: high school/college concurrent enrollment classes that are included in the “Lower-Division Academic Course Guide Manual (Approved Courses)” and precalculus;
5. Science: high school/college concurrent enrollment classes that are included in the “Lower-Division Academic Course Guide Manual (Approved Courses)”;
6. Social Studies: Social Studies Advanced Studies, Economics Advanced Studies, and high school/college concurrent enrollment classes that are included in the “Lower-Division Academic Course Guide Manual (Approved Courses).”

Moody Early Childhood Center may identify additional honors courses in the subject areas of English language arts, mathematics, science, social studies, or a language other than English for the purposes of extracurricular eligibility, but must identify such courses before the semester in which any exemptions related to extracurricular activities occur.

Moody Early Childhood Center is neither required to nor restricted from considering courses as honors for the purpose of grade point average calculation.

Education Code 33.081(d-1); 19 TAC 74.30.

e) Students with Disabilities

In the case of a student with a disability that significantly interferes with the student’s ability to meet regular academic standards, suspension must be based on the student’s failure to meet the requirements of the student’s individualized education program (“IEP”). The determination of whether the disability significantly interferes with the student’s ability to meet regular academic standards must be made by the admission, review, and dismissal (“ARD”) committee.

For the purposes of this provision, “student with a disability” means a student who is eligible for Moody Early Childhood Center’s special education program under Education Code 29.003(b).

Education Code 33.081(e).

f) Practice or Rehearsal

A student suspended under Education Code 33.081 may practice or rehearse with other students for an extracurricular activity but may not participate in a competition or other public performance. *Education Code 33.081(f).*

g) Reinstatement

Until the suspension is removed or the school year ends, Moody Early Childhood Center shall review the grades of a student at the end of each three-week period following the date on which the suspension began. At the time of a review, the suspension is removed if the student's grade in each class, other than a course described above at "Exempt Courses," is equal to or greater than the equivalent of 70 on a scale of 100. The principal and each of the student's teachers shall make the determination concerning the student's grades. *Education Code 33.081(d)*.

SEC. 5. ATTENDANCE AND PARTICIPATION

Moody Early Childhood Center shall make no distinction between absences for UIL activities and absences for other extracurricular activities approved by the Board. A student shall be allowed in a school year a maximum of ten extracurricular absences not related to post-district competition, a maximum of five absences for post-district competition prior to state, and a maximum of two absences for state competition.

a) State Board of Education Rules

The following provisions apply to any UIL activity.

Other organizations requiring student participation that causes a student to miss a class may request sanction from the Board. If sanctioned by resolution of the Board, student participation in the organization's activities shall be subject to all provisions of 19 TAC 76.1001. If the Board does not grant sanction, any absences incurred by a student while participating with that organization's activities shall be subject to the attendance provisions of the Education Code. *19 TAC 76.1001(f)*.

b) Extracurricular Activities

An extracurricular activity is an activity sponsored by the UIL, the Board, or an organization sanctioned by Board resolution. The extracurricular activity is not necessarily directly related to instruction of the essential knowledge and skills, but may have an indirect relation to some areas of the curriculum.

Extracurricular activities include, but are not limited to, public performances (except as described below), contests, demonstrations, displays, and club activities. In addition, an extracurricular activity is subject to this policy if any one of the following criteria applies:

1. The activity is competitive;
2. The activity is held in conjunction with another activity that is considered extracurricular;
3. The activity is held off-campus, except in a case in which adequate facilities do not exist on campus;
4. The general public is invited; or
5. An admission is charged.

i. Exception – Public Performances

A student ineligible to participate in an extracurricular activity, but who is enrolled in a state-approved course that requires demonstration of the mastery of the essential knowledge and skills in a public performance, may participate in the performance if:

1. Only item 4, above, applies; and
2. The requirement for student participation in public is stated in the essential knowledge and skills of the course.

ii. State-Approved Music Courses

A student ineligible to participate in an extracurricular activity, but who is enrolled in a state-approved music course that participates in UIL Concert and Sight-Reading Evaluation, may perform with the ensemble during the UIL Evaluation performance.

19 TAC 76.1001(a).

a) *Limits on Participation and Practice*

i. During the School Week

Limitations on practice, rehearsal, and student participation during the school week shall be as follows:

1. For any given extracurricular activity, a student may not participate in more than one extracurricular activity per school week, excluding holidays, except as provided in item 2, below.
2. A student may also participate in a tournament or post-district contest, as well as a contest postponed by weather or public disaster that may determine advancement to a post-district level of competition.
3. For each extracurricular activity, Moody Early Childhood Center must limit students to a maximum of eight hours of practice and rehearsal outside the school day per school week.
4. If possible, Moody Early Childhood Center should avoid scheduling extracurricular activities or public performances on the day or evening immediately preceding the day on which the statewide student assessment program is scheduled for grades 3–11.

19 TAC 76.1001(d); Education Code 33.081(a).

ii. During the School Day

Limitations on practice and rehearsal during the school day shall be as follows:

1. Moody Early Childhood Center must limit a student to one period of practice during the regularly scheduled school day for practice of extracurricular activities, such as athletics, drill team, or cheerleading.
2. The limit in item 1 does not prohibit a student from enrolling in any state-approved class. A student who is enrolled in a state-approved class that includes essential knowledge and skills that relate to the preparation for an extracurricular activity may practice that extracurricular activity for no more than one period during the school day.
3. A student may not be permitted to miss a scheduled academic class to practice for an unrelated extracurricular activity.
4. Moody Early Childhood Center must limit extracurricular practice during the school day to ensure that class periods for extracurricular practice do not exceed the time allotted for other class periods.
5. Moody Early Childhood Center may elect to practice extracurricular activities daily, provided the total minutes allowed for the extracurricular practice is not greater than 300 minutes during the school week.

19 TAC 76.1001(d); Education Code 33.081(a).

b) Record of Absences

Moody Early Childhood Center shall maintain an accurate record of extracurricular absences for each student each school year. *19 TAC 76.1001(c).*

SEC. 6. APPLICABILITY OF SCHOOL POLICY STUDENT CODE OF CONDUCT

Students are subject to Moody Early Childhood Center policies and rules, including the Student Handbook and Student Code of Conduct, at any time the student is traveling to, participating in, attending an extracurricular or school-related event or activity on or off Moody Early Childhood Center property, or when under the direct supervision of a Moody Early Childhood Center employee.

SEC. 1. PURCHASING INSURANCE

The Board may purchase insurance against bodily injury sustained by students while training for or engaging in interscholastic athletic competition or while engaging in school-sponsored activities on a school campus. Such insurance shall be purchased from a reliable insurance company authorized to do business in Texas and shall be on forms approved by the commissioner of insurance. The amount shall be in keeping with the financial condition of Moody Early Childhood Center and shall not exceed the amount that the Board considers reasonably necessary to afford adequate medical treatment of students so injured.

SEC. 2. PAYMENT OF PREMIUMS

The cost of student insurance shall constitute a legitimate part of the total cost of operating Moody Early Childhood Center.

SEC. 3. NO LIABILITY FOR FAILURE TO PURCHASE

The failure of the Board to purchase student insurance shall not be construed as placing any legal liability upon Moody Early Childhood Center or its officers, agents, or employees for any injury that may result.

Education Code 38.024.

SEC. 4. OTHER COVERAGE

Moody Early Childhood Center is not authorized to spend public funds on insurance to benefit persons to whom it owes no legal duty and shall not expend public funds for that purpose.

SEC. 1. GENERAL GUIDELINES

Moody Early Childhood Center personnel shall adhere to the following general guidelines when imposing discipline:

1. A student shall be disciplined when necessary to improve the student’s behavior, to maintain essential order, or to protect other students, school employees, or property.
2. Students shall be treated fairly and equitably. Discipline shall be based on a careful assessment of the circumstances of each case.

Disciplinary consequences shall not have the effect of discriminating on the basis of gender, race, color, disability, religion, ethnicity, age, or national origin.

SEC. 2. STUDENT CODE OF CONDUCT

The Board shall adopt a Student Code of Conduct, which shall establish standards for behavior and identify general types of prohibited behavior and their possible consequences. The Student Code of Conduct shall also outline Moody Early Childhood Center’s due process procedures with respect to expulsion. *Education Code 12.131(a)*.

At the beginning of the school year and throughout the school year as necessary, the Student Code of Conduct shall be:

1. Made available for review in the Principal’s office; and
2. Made available on the Moody Early Childhood Center website and/or as hard copy to students, parents, teachers, administrators, and to others on request.

Revisions to the Student Code of Conduct approved by the Board during the year shall be made available promptly to students and parents, teachers, administrators, and others.

SEC. 3. OUT-OF-SCHOOL SUSPENSION AND STUDENTS WHO ARE HOMELESS

Moody Early Childhood Center may not place a student who is homeless in out-of-school suspension unless the student engages in the following conduct while on school property or while attending a school-sponsored or school-related activity on or off of school property:

1. Conduct that contains the elements of an offense related to weapons under Penal Code 46.02 or 46.05;
2. Conduct that contains the elements of a violent offense under Penal Code 22.01, 22.011, 22.02, or 22.021; or
3. Selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of:

- a. Marijuana or a controlled substance, as defined by Health and Safety Code Chapter 481 or by 21 USC 801;
- b. A dangerous drug, as defined by Health and Safety Code Chapter 483; or
- c. An alcoholic beverage, as defined by Alcoholic Beverage Code 1.04.

Education Code 37.005(d).

SEC. 4. CORPORAL PUNISHMENT

The Board prohibits the use of corporal punishment in Moody Early Childhood Center. Students shall not be spanked, paddled, or otherwise physically disciplined for violations of the Student Code of Conduct.

SEC. 5. EXTRACURRICULAR STANDARDS OF BEHAVIOR

Sponsors and coaches of extracurricular activities may develop and submit for approval standards of behavior that are higher than the Moody Early Childhood Center-developed Student Code of Conduct and may condition membership or participation in the activity on adherence to those standards. Extracurricular standards of behavior may take into consideration conduct that occurs at any time, on or off Moody Early Childhood Center property. Extracurricular behavioral standards shall not have the effect of discriminating on the basis of gender, race, color, disability, religion, ethnicity, age, or national origin.

Students shall be informed of any extracurricular behavior standards at the beginning of each school year or when the students first begin participation in the activity. Students and their parents shall sign and return to the sponsor or coach a statement that they have read the extracurricular behavior standards and consent to them as a condition of participation in the activity.

Standards of behavior for an extracurricular activity are independent of the Student Code of Conduct. Violations of these standards of behavior that are also violations of the Student Code of Conduct may result in independent disciplinary actions.

A student may be removed from participation in extracurricular activities or may be excluded from school honors for violation of extracurricular standards of behavior for an activity or for violation of the Student Code of Conduct.

SEC. 6. EXPULSION

The Superintendent or designee shall determine conduct for which students may be expelled from school. Expellable offenses shall be described in the Student Code of Conduct, which shall be distributed to students and parents on an annual basis, as well as made available at each

Moody Early Childhood Center campus and posted on the Moody Early Childhood Center website. *Education Code 12.131.*

a) Federal Firearm Provision

In accordance with the Gun-Free Schools Act, Moody Early Childhood Center shall expel from the student’s regular program, for a period of one year, any student who is determined to have brought a firearm, as defined by federal law, to any Moody Early Childhood Center campus. The Superintendent may modify the term of expulsion for a student or assess another comparable penalty that results in the student’s exclusion from the regular school program on a case-by-case basis. *18 U.S.C. 922.*

For the purposes of this provision, “firearm” means:

1. Any weapon (including a starter gun), which will or is designed to or which may readily be converted to expel a projectile by the action of an explosive;
2. The frame or receiver of any such weapon;
3. Any firearm muffler or firearm silencer; or
4. Any destructive device. “Destructive device” means any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or device similar to any of the preceding described devices. It also means any type of weapon (other than a shotgun shell or a shotgun that is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and any combination of parts either designed or intended for use in converting any device into a destructive device as described in this item, and from which a destructive device may be readily assembled.

18 U.S.C. 921(a).

b) Expulsion Proceedings

i. Due Process

Before a student may be expelled, the Board or its designee shall provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution. The minimum procedural requirements necessary to satisfy due process depend upon the circumstances and the interests of the parties involved. Federal due process requires notice and some opportunity for hearing.

ii. Notice

The notice should contain a statement of the specific charges and grounds that, if proven, would justify expulsion. In some cases, the student should be given the names of the witnesses against him or her and an oral or written report on the facts to which each witness testifies.

iii. Hearing

The rights of the student may properly be determined upon the hearsay evidence of school administrators who investigate disciplinary infractions.

iv. Representative

At the hearing, the student is entitled to be represented by the student's parent, guardian, or another adult who can provide guidance to the student and who is not an employee of Moody Early Childhood Center. If Moody Early Childhood Center makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing, Moody Early Childhood Center may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends.

v. Term of Expulsion

If the period of expulsion is inconsistent with the guidelines on length of expulsion in the Student Code of Conduct, the order must give notice of the inconsistency.

vi. Appeals

The Superintendent or designee shall develop an appeal process for expulsion decisions; this process shall recognize the Board's final authority to hear or decide a parent or student appeal of an expulsion. The Superintendent or designee shall ensure that the appeal process is made available to students and parents through the Student Handbook. The Board's decision is final and may not be appealed.

Disciplinary consequences shall not be deferred pending an appeal.

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SEC. 1. SEARCHES OF STUDENTS

In the interest of promoting student safety and attempting to ensure that Moody Early Childhood Center is safe and drug free, school officials may, from time to time, conduct searches. Such searches are conducted without a warrant and as permitted by law.

Administrators, teachers and other professional personnel may question a student regarding the student’s own conduct or the conduct of other students. In the context of school discipline, students have no claim to the right not to incriminate themselves.

Students shall be free from unreasonable searches and seizures by Moody Early Childhood Center officials. Moody Early Childhood Center officials may search a student’s outer clothing, pockets, or property by establishing reasonable cause or securing the student’s voluntary consent.

A search is reasonable if it meets both of the following criteria:

1. The action is justified at the inception; i.e., the school official has reasonable grounds for suspecting that the search will uncover evidence of a rule violation or a criminal violation.
2. The scope of the search is reasonably related to the circumstances that justified the search in the first place such as the extent of the search, the objectives of the search, the age and sex of the student, and the nature of the infraction.

SEC. 2. INTERROGATIONS

a) By School Officials

Administrators, teachers, and other professional personnel may question a student regarding the student’s own conduct or the conduct of other students. In the context of school discipline, students have no claim to the right not to incriminate themselves.

b) By Police or Other Authorities

When a representative of the Department of Family and Protective Services or another lawful authority requests to question or interview a student at school as part of a child abuse investigation, the Principal or designee shall cooperate fully with the official’s requests regarding the conditions of the interview or questioning.

When law enforcement officers or other lawful authorities request to question or interview a student at school for any purpose other than a child abuse investigation, the following guidelines shall apply:

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1. The Principal or designee shall verify and record the identity of the officer or other authority and request an explanation of the need to question or interview the student at school.
2. The Principal or designee ordinarily shall make reasonable efforts to notify the student's parent or other person having lawful control of the student. If the interviewer raises what the Principal or designee considers to be a valid objection to the notification, the parent or other person having lawful control of the student shall not be notified.
3. The Principal or a designee ordinarily shall be present during the questioning or interview. If the interviewer raises what the Principal or designee considers to be a valid objection to a third party's presence, the interview shall be conducted without that person's presence.

Before a student at school is arrested or taken into custody by a law enforcement officer or other legally authorized person, the Principal or designee shall verify the official's identity. To the best of his or her ability, the Principal or designee shall verify the official's authority to take custody of the student and then shall deliver over the student.

The Principal or designee shall immediately notify the Superintendent and ordinarily shall notify the parent or other person having lawful control of the student. If the officer or other authorized person raises what the Principal or designee considers to be a valid objection to notifying the parent or other person having lawful control of the student at that time, the Principal or designee shall not notify the parent or other person having lawful control of the student.

SEC. 3. DESKS AND LOCKERS

Desks, lockers, and similar items are the property of Moody Early Childhood Center and are provided for student use as a matter of convenience. Moody Early Childhood Center will make periodic inspections of lockers and desks at any time, with or without notice or student consent. Moody Early Childhood Center officials will remove any item that violates Moody Early Childhood Center policy or that may potentially be dangerous.

Students have full responsibility for the security of their lockers and desks, and shall be held responsible for any prohibited items found during a search. The student's parent shall be notified if any prohibited articles or materials are found in a student's desk or locker, or on the student's person, as a result of a search conducted in accordance with this policy.

SEC. 4. VEHICLES

Vehicles parked on Moody Early Childhood Center property and property under Moody Early Childhood Center's control are under the jurisdiction of Moody Early Childhood Center and may be searched at any time if reasonable suspicion exists to believe that the search will result in evidence that school rules or other laws have been violated. If a vehicle subject to search is locked, the student shall be asked to unlock the vehicle and consent to a search of the vehicle. If

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the student refuses to permit the vehicle to be searched, Moody Early Childhood Center may contact the student's parents, and/or law enforcement officials. A student may be held responsible for and in possession of prohibited items found in his or her vehicle parked on Moody Early Childhood Center's property or at a school-related event.

SEC. 5. USE OF TRAINED DOGS

Moody Early Childhood Center may use or contract for specially trained nonaggressive dogs to sniff out and alert Moody Early Childhood Center officials to the presence of concealed, prohibited or illegal items, including drugs and alcohol. Such visits to Moody Early Childhood Center may be unannounced. The dogs shall be used to sniff vacant classrooms, vacant common areas, the areas around student lockers, and the areas around vehicles parked on Moody Early Childhood Center property. The dogs shall not be asked to alert on students. If a dog alerts to a locker, a vehicle, or an item in a classroom, it may be searched by Moody Early Childhood Center officials.

SEC. 6. PARENT NOTIFICATION

The student's parent or guardian shall be notified if any prohibited articles or materials are found in a student's locker, in a student's vehicle parked on school property, or on the student's person, as a result of a search conducted in accordance with this policy.

SEC. 1. PURPOSE

Moody Early Childhood Center recognizes that physical, mental, behavioral, and emotional health are each important components of a student’s educational outcomes. The purpose of this policy is to protect the health and well-being of all students by establishing procedures to assess the risk of, prevent, intervene in, and respond to suicide.

This policy is intended to be paired with other policies supporting the mental, behavioral, and emotional health of students. As part of that intention, this policy is meant to be applied in accordance with Moody Early Childhood Center’s Child Find obligations under federal law.

SEC. 2. SCOPE

This policy applies to actions that take place on school property during the school day, at school-sponsored events, and on school buses or vehicles. This policy applies to the entire school community, including educators, staff, students, parents/guardians, and volunteers. This policy will also cover appropriate school responses to suicidal or high-risk behaviors that take place outside of the school environment of which school personnel become aware.

SEC. 3. DEFINITIONS

a) At risk

A student who is defined as high risk for suicide is one who has made a suicide attempt, has the intent to die by suicide, or has displayed a significant change in behavior suggesting the onset or deterioration of a mental health condition. The student may have thought about suicide, including potential means of death and may have a plan. In addition, the student may exhibit feelings of isolation, hopelessness, helplessness, and the inability to tolerate any more pain. This situation would necessitate a referral in accordance with this policy.

b) Crisis team

A multidisciplinary team of primarily administrative, mental health, safety professionals, and support staff whose primary focus is to address crisis preparedness, intervention/response, and recovery. These professionals have been specifically trained in crisis preparedness through recovery and take the leadership role in developing crisis plans, ensuring school staff can effectively execute various crisis protocols, and may provide mental health services for effective crisis interventions and recovery supports.

Moody Early Childhood Center may designate the threat assessment and safe and supportive school team established under Section 37.115 of the Texas Education Code as the crisis team for purposes of this policy.

c) Mental health

A state of mental and emotional being that can impact choices and actions that affect wellness. Mental health problems include mental and substance use disorders.

d) Postvention

A crisis intervention strategy implemented after a suicide death in the school community designed to reduce the risk of suicide and suicide contagion, provide the support needed to help survivors cope, address the social stigma associated with suicide, and disseminate factual information.

e) Risk assessment

An evaluation of a student who may be at risk for suicide, conducted by the appropriate school staff (e.g., school psychologist, school counselor, or school social worker). This assessment is designed to elicit information regarding the student's intent to die by suicide, previous history of suicide attempts, presence of a suicide plan and its level of lethality and availability, presence of support systems, and level of hopelessness and helplessness, mental status, and other relevant risk factors.

f) Warning signs or risk factors for suicide

Characteristics or conditions that increase the chance that a person may try to take his or her life. Suicide risk tends to be highest when someone has several risk factors at the same time. Risk factors may encompass biological, psychological, and or social factors in the individual, family, and environment. Warning signs may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others.

g) Self-harm

Behavior that is self-directed and deliberately results in injury or the potential for injury to oneself. It can be categorized as either nonsuicidal or suicidal. Although self-harm often lacks suicidal intent, youth who engage in self-harm are more likely to attempt suicide.

h) Suicide

Death caused by self-directed injurious behavior with any intent to die as a result of the behavior. Note: The coroner's or medical examiner's office must first confirm that the death was a suicide before any school official may state this as the cause of death.

i) Suicide attempt

A self-injurious behavior for which there is evidence that the person had at least some intent to kill himself or herself. A suicide attempt may result in death, injuries, or no injuries. A mixture of ambivalent feelings such as wish to die and desire to live is a common experience with most suicide attempts. Therefore, ambivalence is not a sign of a less serious or less dangerous suicide attempt.

j) Suicidal behavior

Suicide attempts, intentional injury to self associated with at least some level of intent, developing a plan or strategy for suicide, gathering the means for a suicide plan, or any other overt action or thought indicating intent to end one's life.

k) Suicide contagion

The process by which suicidal behavior or a suicide influences an increase in the suicidal behaviors of others. Guilt, identification, and modeling are each thought to play a role in contagion. Although rare, suicide contagion can result in a cluster of suicides.

l) Suicidal ideation

Thinking about, considering, or planning for self-injurious behavior which may result in death. A desire to be dead without a plan or intent to end one's life is still considered suicidal ideation and should be taken seriously.

SEC. 4. STAFF TRAINING

In accordance with Section 153.1013 of Title 19 of the Texas Administrative Code, Moody Early Childhood Center provides suicide prevention training to educators as required by Section 21.451(d) of the Texas Education Code.

SEC. 5. PREVENTION

a) Policy Implementation

The Superintendent shall designate a district-wide suicide prevention coordinator. The suicide prevention coordinator will be responsible for planning and coordinating Moody Early Childhood Center's implementation of this policy.

Each school Principal shall designate a campus-level suicide prevention coordinator to act as a point of contact in each school for issues relating to suicide prevention and policy

implementation. All staff members shall report students they believe to be at elevated risk for suicide to the school suicide prevention coordinator.

Each campus-level suicide prevention coordinator shall assemble a crisis team for their school in accordance with definition provided above.

b) Staff Professional Development

Moody Early Childhood Center will provide suicide prevention training using an approved best practice-based program in accordance with Section 153.1013 of Title 19 of the Texas Administrative Code, which incorporates Section 21.451(d) of the Texas Education Code, as well as Section 38.151(e) of the Texas Education Code.

c) Youth Suicide Prevention Education

Developmentally-appropriate, student-centered education materials will be integrated into the curriculum of all Moody Early Childhood Center health classes. The content of these age-appropriate materials will include: 1) the importance of safe and healthy choices and coping strategies, 2) how to recognize risk factors and warning signs of mental disorders and suicide in oneself and others, and 3) help-seeking strategies for oneself or others, including how to engage school resources and refer friends for help. Moody Early Childhood Center may also provide supplemental small-group suicide prevention programming for students.

Publication and Distribution

Notice of this policy will be distributed annually and included in all student and employee handbooks. The policy will be available online on the Moody Early Childhood Center website. A copy of this policy will also be available in campus and district administrative offices.

SEC. 6. INTERVENTION

a) Assessment and Referral

When a student is identified by a Moody Early Childhood Center staff member, peer, or other source as potentially suicidal, e.g., verbalizes about suicide, presents overt risk factors such as agitation or intoxication, an act of self-harm occurs, or expresses or otherwise shows signs of suicidal ideation, the student shall be seen by a school-employed mental health professional, such as a school psychologist, school counselor, school social worker, within the same school day to assess risk and facilitate referral if necessary. Moody Early Childhood Center staff shall also be aware of written threats and expressions about suicide and death in school assignments. Such incidences require immediate referral to the appropriate school-employed mental health professional.

If there is no mental health professional available, a designated staff member (e.g., school nurse or administrator) shall address the situation according to Moody Early Childhood Center protocol until a mental health professional is brought in.

b) At-Risk Students

Moody Early Childhood Center staff shall continuously supervise the student to ensure their safety until the assessment process is complete. The campus principal and school suicide prevention coordinator shall be made aware of the situation as soon as reasonably possible

The school-employed mental health professional or principal shall contact the student’s parent or guardian, as described in the Parental Notification Involvement section and in compliance with existing state law/district policy (if applicable), and shall assist the family with urgent referral

Urgent referral may include, but is not limited to, working with the parent or guardian to set up an outpatient mental health or primary care appointment and conveying the reason for referral to the healthcare provider; in some instances, particularly life-threatening situations, the school may be required to contact emergency services, or arrange for the student to be transported to the local Emergency Department, preferably by a parent or guardian

If parental abuse or neglect is suspected or reported, the appropriate state protection officials (e.g., local Child Protection Services) shall be contacted in lieu of parents as per law.

Staff will ask the student’s parent or guardian, and/or eligible student, for written permission to discuss the student’s health with outside care providers, if appropriate

If the parent(s) or guardian(s) are unwilling or unable to transport the student for immediate evaluation, the Counselor or Principal shall contact local emergency services as appropriate and consider the need for a CPS referral.

c) Law Enforcement Involvement

When a student is actively suicidal and the immediate safety of the student or others is at-risk (such as when a weapon is in the possession of the student), Moody Early Childhood Center staff shall call 911 immediately. The staff calling shall provide as much information about the situation as possible, including the name of the student, any weapons the student may have, and where the student is located. School staff may tell the dispatcher that the student is a suicidal emotionally disturbed person, or “suicidal EDP”, to allow for the dispatcher to send officers with specific training in crisis de-escalation and mental illness.

SEC. 7. PARENTAL NOTIFICATION AND INVOLVEMENT

The campus principal, designee, or school mental health professional shall notify the student's parent or guardian on the same school day, or as soon as possible, any time a student is identified as having any level of risk for suicide or the student has made a suicide attempt.

a) Counseling Alternatives

Following parental notification and based on initial risk assessment, the principal, designee, or school mental health professional may offer recommendations for next steps based on perceived student need. These can include but are not limited to, an additional, external mental health evaluation conducted by a qualified health professional or emergency service provider.

Moody Early Childhood Center will provide a list of mental health facilities, local counselors, and other resources for parents to consider when their child is identified as possibly in need of early mental health intervention and/or suicide prevention. These resources are not in any way connected to Moody Early Childhood Center nor are they necessarily recommended above other resources the parent(s) or guardian(s) may find on their own; the parent or guardian is free to select providers of their choice.

b) Means Counseling

When a student indicates suicidal intent, the campus principal, designee, or school mental health professional shall attempt to discuss safety at home, or “means safety” with the parent or guardian. This includes limiting the student's access to mechanisms for carrying out a suicide attempt (*e.g.*, guns, knives, pills, etc.) and may also include safety planning. It is imperative to ask parents whether or not the student has access to a firearms, medication, or other lethal means.

Moody Early Childhood Center staff will seek parental permission, in the form of a Release of Information form, to communicate with outside mental health care providers regarding the student's safety plan and access to lethal means.

i. Firearms

The Moody Early Childhood Center staff member engaging in means counseling with the parent or guardian will:

1. Inquire of the parent or guardian if firearms are kept in the home or are otherwise accessible to the student.
2. Recommend that parents store all guns away from home while the student is struggling, *e.g.*, following state laws, store their guns with a relative, gun shop, or police.
3. Discuss parent or guardian concerns and help problem-solve around offsite storage, including notice to parent or guardian that offsite storage is an effective, immediate way to protect the student.

4. Explain that in-home locking is not as safe as offsite storage, as children and adolescents sometimes find the keys or get past the locks.

If there are no guns at home, Moody Early Childhood Center staff member will also ask about guns in other residences (e.g., joint custody situation, access to guns in the homes of friends or other family members)

If the parent or guardian is unwilling or unable to store firearms offsite, the Moody Early Childhood Center staff member will inform the parent or guardian that the next safest option is to unload guns, lock them in a gun safe, and lock ammunition separately (or do not ammunition at home). If guns are already locked, the Moody Early Childhood Center staff member will ask parents to consider changing the combination or key location in case the student is aware of the combination or location.

ii. Medications

The Moody Early Childhood Center staff member engaging in means counseling with the parent or guardian will:

1. Recommend the parent or guardian lock up all medications (except rescue meds like inhalers), either with a traditional lock box or a daily pill dispenser.
2. Recommend disposing of expired and unneeded medications, especially prescription pain pills.
3. Recommend parent or guardian maintain possession of the student's medication, only dispensing one dose at a time under supervision

If the parent or guardian is unwilling or unable lock medication away from student access, the Moody Early Childhood Center staff member will advise they prioritize and seek specific guidance from a

doctor or pharmacist regarding: (1) prescriptions, especially for pain, anxiety or insomnia; (2) over-the-counter pain pills; and (3) over-the-counter sleeping pills.

SEC. 8. IN-SCHOOL SUICIDE ATTEMPTS

In the case of an in-school suicide attempt, the health and safety of the student is paramount. In these situations:

1. First aid will be rendered until professional medical treatment and/or transportation can be received, following district emergency medical procedures.
2. Moody Early Childhood Center staff will supervise the student to ensure his or her safety.
3. Staff will move all other students out of the immediate area as soon as possible.
4. If appropriate, staff will immediately request a mental health assessment for the youth.

5. Staff will immediately notify the campus principal or school suicide prevention coordinator regarding in-school suicide attempts.
6. The principal, designee, or school mental health professional will contact the student's parent or guardian, as described in the Parental Notification and Involvement section.
7. Moody Early Childhood Center will engage as necessary the crisis team to assess whether additional steps should be taken to ensure student safety and well-being.

SEC. 9. OUT-OF-SCHOOL SUICIDE ATTEMPTS

If a Moody Early Childhood Center staff member becomes aware of a suicide attempt by a student that is in progress in an out-of-school location, the staff member will:

1. Call the police and/or emergency medical services, such as 911.
2. Inform the student's parent or guardian.
3. Inform the campus suicide prevention coordinator and Principal.

If the student contacts the staff member and expresses suicidal ideation, the staff member should maintain contact with the student (either in person, online, or on the phone). The staff member should then enlist the assistance of another person to contact the police while maintaining verbal engagement with the student.

SEC. 10. RE-ENTRY PROCEDURE

For students returning to school after a mental health crisis (*e.g.*, suicide attempt or psychiatric hospitalization), the campus principal, designee, or school mental health professional will meet with the student's parent or guardian, and if appropriate, meet with the student to discuss re-entry.

The meeting shall address next steps needed to ensure the student's readiness for return to school, plan for the first day back, and ease the transition back into the school environment (*e.g.*, whether or not the student will be required to make up missed work, the nature of check-in/check-out visits, etc.). Any necessary accommodations shall also be discussed and documented.

Following a student hospitalization, parents may be encouraged to inform the school mental health professional of the student's hospitalization to ensure continuity of service provision and increase the likelihood of a successful re-entry. While not a requirement for re-entry, Moody Early Childhood Center may coordinate with the hospital and any external mental health providers to assess the student for readiness to return to school.

A school mental health professional or other designee shall be identified to coordinate with the student, their parent or guardian, and any outside health care providers. The mental health professional shall meet with the student and their parents or guardians to discuss and document a re-entry procedure

The designated staff person shall periodically check-in with the student to help with readjustment to the school community and address any ongoing concerns, including social or academic concerns.

The school mental health professional shall check-in with the student and the student’s parents or guardians at an agreed upon interval depending on the student’s needs either on the phone or in person for a mutually agreed upon time period (*e.g.*, for a period of three months). These efforts are encouraged to ensure the student and their parents or guardians are supported in the transition, with more frequent check-ins initially, and then fading support.

The administration shall disclose to the student’s teachers and other relevant staff (without sharing specific details of mental health diagnoses) that the student is returning after a medically-related absence and may need adjusted deadlines for assignments. The school mental health professional shall be available to teachers to discuss any concerns they may have regarding the student after re-entry.

SEC. 11. POSTVENTION

a) Development and Implementation of an Action Plan

The crisis team will develop an action plan to guide school response following a death by suicide. A meeting of the crisis team to implement the action plan should take place immediately following news of the suicide death. The action plan may include the following steps:

1. **Gather facts.** The crisis response coordinator or other designated school official (*e.g.*, the campus principal or superintendent) will confirm the death and determine the cause of death through communication with the student’s parent or guardian, the coroner’s office, local hospital, or police department. Before the death is officially classified as a suicide by the coroner’s office, the death shall be reported to staff, students, and parents or guardians, with an acknowledgement that its cause is unknown. When a case is perceived as being an obvious instance of suicide, it shall not be labeled as such until after a cause of death ruling has been made. If the cause of death has been confirmed as suicide but the parent or guardian prefers the cause of death not be disclosed, the school may release a general statement without disclosing the student’s name (*e.g.*, “We had a ninth-grade student die over the weekend”). If the parents do not want to disclose cause of death, an administrator or mental health professional from the school who has a good relationship with the family shall be designated to speak with the parents to explain the benefits of sharing mental health

resources and suicide prevention with students. If the family refuses to permit disclosure, schools may state “The family has requested that information about the cause of death not be shared at this time.” Staff may also use the opportunity to talk with students about suicide.

2. **Assess the situation.** The crisis team shall meet to prepare the postvention response according to the crisis response plan. The team shall consider how the death is likely to affect other students, and determine which students are most likely to be affected. The crisis response team shall also consider how recently other traumatic events have occurred within the school community and the time of year of the suicide. The team and principal shall triage staff first, and all teachers directly involved with the victim shall be notified in-person and offered the opportunity for support.
3. **Share information.** The designated staff person shall inform the other staff that a sudden death has occurred, preferably in an all-staff meeting. The crisis team shall provide a written statement for staff members to share with students and assess staff’s readiness to provide this message in the event a designee is needed. The statement shall include the basic facts of the death and known funeral arrangements (without providing details of the suicide method), recognition of the sorrow the news will cause, and information about the resources available to help students cope with their grief.

Staff shall respond to questions only with factual information that has been confirmed. Staff shall dispel rumors with facts, be flexible with academic demands, encourage conversations about suicide and mental health, normalize a wide range of emotional reactions, and know the referral process and how to get help for a student. Staff will avoid public address system announcements and school-wide assemblies in favor of face-to-face notifications, including small-group and classroom discussions. The crisis response team may prepare a letter (with the input and permission from the student’s parent or guardian) to communicate with parents which includes facts about the death, information about what the school is doing to support students, the warning signs of suicidal behavior, and a list of resources available. If necessary, a parent meeting may also be planned. Staff shall direct all media inquiries to the designated school or district spokesperson.

4. **Avoid suicide contagion.** Moody Early Childhood Center will actively triage particular risk factors for contagion, including emotional proximity (*e.g.*, siblings, friends, or teammates), physical proximity (witness, neighbor) and pre-existing mental health issues or trauma. The designated staff person shall explain in an all-staff meeting that one purpose of trying to identify and provide services to other high-risk students is to prevent another death. The crisis team shall work with teachers to identify students who are most likely to be significantly affected by the death, or who exhibit behavioral changes indicating increased risk. In the staff

meeting, the crisis team shall review suicide warning signs and procedures for referring students who present with increased risk. For those school personnel who are concerned that talking about suicide may contribute to contagion, it has been clearly demonstrated through research that talking about mental health and suicide in a nonjudgmental, open way that encourages dialogue and help-seeking does not elevate risk.

5. **Initiate support services.** Students identified as being more likely to be affected by the death will be assessed by a school mental health professional to determine the level of support needed. The crisis team shall coordinate support services for students and staff in need of individual and small group counseling as needed. School mental health professionals will provide on-going and long term support to students impacted by the death of the student, as needed. If long term intensive services by a community provider are warranted, the school mental health professional will collaborate with that provider and the family to ensure continuity of care between the school, home, and community. Together with parents or guardians, crisis team members shall provide information for partner community mental health providers, or providers with appropriate expertise, to ensure a smooth transition from the crisis intervention phase to meeting underlying or ongoing mental health needs. These discussions may include debriefing (orientation to the facts), reflection on memories, reminders for and re-teaching of coping skills, and encouraging spending time with friends and caregivers as soon as possible. Students and staff affected by the suicide death shall be encouraged to return to a normal routine as much as possible, understanding that some deviation from routine is to be expected.
6. **Develop memorial plans.** Moody Early Childhood Center will not create or permit on-campus physical memorials (*e.g.*, photos, flowers, locker displays), funeral services, or fly the flag at half-mast because it may sensationalize the death and encourage suicide contagion. School should not be canceled for the funeral. Spontaneous memorials may occur from students expressing their grief.

School shall not be canceled for the funeral or for reasons related to the death. Any school-based memorials (*e.g.*, small gatherings) shall include a focus on how to prevent future suicides and prevention resources available. Any school-based memorials (*e.g.*, small gatherings) will include a focus on how to prevent future suicides and prevention resources available.

b) External Communication

The Moody Early Childhood Center-appointed spokesperson will be the sole media spokesperson. Staff will refer all inquiries from the media directly to the spokesperson. The spokesperson will:

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POLICY GROUP 3 – STUDENTS

SUICIDE PREVENTION, INTERVENTION, AND POSTVENTION

PG-3.39

1. Keep the district suicide prevention coordinator and Superintendent informed of school actions relating to the death.
2. Prepare a statement for the media including the facts of the death, postvention plans, and available resources. The statement will not include confidential information, speculation about victim motivation, means of suicide, or personal family information.
3. Answer all media inquiries. If a suicide is to be reported by news media, the spokesperson should encourage reporters not to make it a front-page story, not to use pictures of the suicide victim, not to use the word suicide in the caption of the story, not to describe the method of suicide, and not to use the phrase “suicide epidemic” – as this may elevate the risk of suicide contagion. They should also be encouraged not to link bullying to suicide and not to speculate about the reason for suicide. Media should be asked to offer the community information on suicide risk factors, warning signs, and resources available.

SEC. 1. BACKGROUND AND ASSUMPTIONS

Moody Early Childhood Center has adopted and implements a robust anti-discrimination policy prohibiting discrimination on the basis of sex, including sexual orientation and gender identity, under Title IX of the Education Amendments of 1972 (“Title IX”). This policy may be found in Board Policy PG-3.2. Moody Early Childhood Center also has a comprehensive anti-bullying policy, found in Board Policy.

The recognition of any distinction between “gender identity” or “gender expression” and biological sex is not yet a matter of settled law in the United States. Moreover, case law concerning transgender students’ rights in public schools is scarce and still developing. Moody Early Childhood Center will comply with all settled law (plain language statute, controlling case law, and formally adopted administrative regulations) which govern the operation of public schools in the State of Texas.

The United States Department of Education Office for Civil Rights (“OCR”) has long recognized that Title IX protects all students, including students who are lesbian, gay, bisexual, and transgender, from harassment and other forms of sex discrimination. OCR also has long recognized that Title IX prohibits harassment and other forms of discrimination against all students for not conforming to stereotypical notions of masculinity and femininity.

In June 2021, OCR issued a Notice of Interpretation making clear that the Department interprets Title IX’s prohibition on sex discrimination to encompass discrimination based on sexual orientation and gender identity.

Moody Early Childhood Center will take into account each student’s right to privacy and safety in accessing school facilities. Moody Early Childhood Center will implement its policies with the understanding that every child entrusted to its care, regardless of sex, gender expression or identity, class, race, religion, and national origin, is to be educated with the same level of care and respect for the student’s dignity and innate human potential.

SEC. 2. PURPOSE

State and federal law, as well as school policy, require that all school programs, activities, and employment practices are free from discrimination based on sex and gender. Moody Early Childhood Center is also responsible for ensuring the safety of all students during the school day and during school activities. This includes providing for the physical privacy rights of students.

Moody Early Childhood Center is also responsible for maintaining order, decorum, and discipline during school, and for ensuring that the educational environment is free from disruption and disturbance in order to provide equal educational opportunities to all students.

This policy is found by the Board of Directors to be in the best interest of all students attending Moody Early Childhood Center, and necessary for maintaining the privacy rights, safety, discipline, and order of students, and in preserving the educational environment. However, this policy does not anticipate every situation that might occur with respect to transgender, non-binary, or non-gender conforming students, meaning that the needs of each student must be assessed on a case-by-case basis. In all cases, the goal is to ensure the safety, comfort, and healthy development of all students while maximizing the social integration and minimizing stigmatization of students.

While Moody Early Childhood Center does not specifically endorse any student’s gender identity or expression, school staff will respect and work to accommodate, to the extent allowed under policy and applicable law, each student’s gender identity and expression.

SEC. 3. DEFINITIONS

The following definitions are not intended to label individuals, but rather to assist in understanding this policy and the legal obligations of school personnel. Individuals may or may not utilize these terms to describe themselves.

“Gender expression” means a person’s gender-related appearance and behavior (*i.e.*, clothing, hairstyles, activities, or mannerisms), whether or not stereotypically associated with the person’s assigned sex at birth.

“Gender identity” means a person’s internal sense of identification as a female, male, or non-binary understanding of gender. A person’s gender identity may be incongruent with or the same as the person’s assigned sex at birth.

“Gender nonconforming” means displaying a gender identity or expression that may differ from that typically associated with one’s sex assigned at birth. Gender nonconforming is not synonymous with transgender; not all gender nonconforming people identify as transgender.

“Non-binary” is a broad term to encompass individuals who do not fit into traditional “male” and “female” gender categories. Includes individuals who identify as agender, bigender, gender fluid, genderqueer, and various other genders.

“Sex” means an individual’s biological classification as male or female at the time of birth and as recorded on their official state-issued birth certificate.

“Transgender” means an individual who consistently and uniformly asserts a gender identity that differs from the biological sex assigned at birth.

SEC. 4. POLICY

a) Student enrollment and instruction

1. Moody Early Childhood Center is required by law to maintain a permanent record (an “official record”) for each student, which includes each student’s individual legal name and sex. For purposes of a student’s official record or any official report or disclosure made pursuant to federal, state, local, or administrative law, including purposes associated with standardized testing, Moody Early Childhood Center shall identify students in accordance with the legal name and biological sex as indicated on the student’s current, official state-issued birth certificate.
2. In the event of an update or change to a student’s birth certificate, Moody Early Childhood Center shall consider the information reflected in the most recent birth certificate as accurate, and shall modify all official records associated with that student accordingly.
3. With regards to all non-official documentation and correspondence and verbal identifications, students may request to be addressed by a “preferred” name corresponding with their gender identity without first obtaining a court order or any medical or mental health diagnosis or treatment. A parent or legal guardian may also request that their child be informally and verbally addressed by the student’s preferred name without first obtaining a court order or any medical or mental health diagnosis or treatment. This includes proper use of the gender-specific pronouns which correspond to the preferred gender identity expressed by the student or student’s parent.
4. While inadvertent slips or honest mistakes in the use of a preferred name or pronoun may occur, the intentional and persistent refusal to respect a student’s gender identity is not acceptable.
5. Students may wear gender nonconforming clothing that does not match a student’s assigned sex at birth. However, gender nonconforming students are still subject to the school’s established dress code with respect to the student’s preferred gender attire.
6. Students have a general right to privacy. To maintain student privacy, school personnel should not disclose a student’s gender identity or gender expression to others, including other students, parents, or school personnel, unless there is a specific, legitimate “need to know,” the disclosing party has been legally permitted to

disseminate such information, or the disclosing party has been given authorization to disclose by the student.

7. To ensure confidentiality when discussing conduct, discipline, grades, attendance, health, or other school matters, school personnel should not make assumptions regarding a student’s gender identity or gender expression.

b) Use of School Facilities

1. Moody Early Childhood Center shall maintain restrooms that are single-sex only, and shall also provide single-occupant, sex-neutral restrooms. Single-occupant, sex-neutral restrooms are open to optional use by individuals of either sex. No student shall be forced to share a single-sex restroom with other students or school personnel.
2. Moody Early Childhood Center shall maintain locker rooms and changing facilities that are single-sex only. Students are permitted to use the single-sex locker room or changing facilities that correspond to their sex as noted in current official records as described above. If there is a request for increased privacy and safety, regardless of the underlying reason, any student may be provided access to a reasonable alternative locker room or changing facility such as:
 - i. A private area within a public restroom (*i.e.*, a bathroom stall with a door, an area separated by a curtain, a PE instructor’s office in the locker room, etc.);
 - ii. A separate changing schedule (*i.e.*, utilizing the locker room before or after other students);
 - iii. Use of a nearby private area (*i.e.*, a nearby restroom or nurses office); or
 - iv. Other alternative arrangements provided in a way that keeps the student’s gender identity confidential.
3. To the extent possible, any alternative arrangement should be provided in a way that allows the student’s gender identity to be kept confidential.
4. Restrooms and locker room and changing facilities shall be clearly marked and designated for the assigned sex or sex-neutral.
5. The provision concerning use of restroom and locker room and changing facilities shall not apply to a person or persons who enter a single-sex facility for purposes of:
 - i. Maintenance;
 - ii. Providing medical assistance;
 - iii. Protecting a student/students from a threat to school order or safety; and/or
 - iv. Seeking shelter in an emergency.

c) Participation in school activities

All students shall be provided equal opportunities to participate in physical education activities. Moody Early Childhood Center will administer its interscholastic athletic competition teams in

accordance with Section 33.0834 of the Texas Education Code. Students are eligible to participate in the single-sex extra-curricular activities that correspond to their sex as correctly stated on the student’s official birth certificate (or other government record as permitted by Section 33.0834 if the student’s birth certificate is unavailable), and based on requirements of the specific league or ruling body of the athletic activity.

Moody Early Childhood Center may allow a female student to compete in an interscholastic athletic competition that is designated for male students if a corresponding interscholastic athletic competition designated for female students is not offered or available.

d) Overnight Activities and Trips

1. In the planning of sleeping arrangements during overnight activity and trips, the needs of students who are transgender shall be assessed on a case-by-case basis with the goals of maximizing the student’s social integration and equal opportunity to participate in overnight activities trips, ensuring the student’s safety and comfort, and minimizing stigmatization of the student. In most cases, students will be assigned to sleeping accommodations which correspond to the student’s sex as indicated in their current official record.
2. Any student who has a need or desire for increased privacy, regardless of the underlying reason, should be provided with a reasonable accommodation, which may include a private room.
3. To the extent possible, any alternative arrangement should be provided in a way that allows the student’s gender identity to be kept confidential.

SEC. 5. COMPLAINTS

Complaints of discrimination on the basis of sexual orientation or gender identity should follow the procedure and process for Title IX complaints set forth in Board Policy PG-3.2. Complaints of bullying, including on the basis of sexual orientation or gender identity, should follow the procedure and process set forth in Board Policy PG-3.3.

**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
MANUAL**

POLICY GROUP 4 – PERSONNEL
EQUAL EMPLOYMENT OPPORTUNITY

PG-4.1

SEC. 1. NONDISCRIMINATION IN GENERAL

Moody Early Childhood Center shall not fail or refuse to hire or discharge any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment on the basis of any of the following protected characteristics:

1. Race, color, or national origin;
2. Sex;
3. Religion;
4. Age (applies to individuals who are 40 years of age or older);
5. Disability; or
6. Genetic information.

42 U.S.C. 1981; 42 U.S.C. 2000e et seq. (Title VII); 20 U.S.C. 1681 et seq. (Title IX); 42 U.S.C. 12111 et seq. (Americans with Disabilities Act); 29 U.S.C. 621 et seq. (Age Discrimination in Employment Act); 29 U.S.C. 793, 794 (Rehabilitation Act); 42 U.S.C. 2000ff et seq. (Genetic Information Nondiscrimination Act); U.S. Const. Amend. I; Human Resources Code 121.003(f); Texas Labor Code Chapter 21 (Texas Commission on Human Rights Act); Texas Labor Code Chapter 21, Subchapter H (genetic information).

a) Job Qualification

Moody Early Childhood Center may take employment actions based on religion, sex, national origin, or age in those certain instances where religion, sex, national origin, or age is a bona fide occupational qualification. *42 U.S.C. 2000e-2(e); 29 U.S.C. 623(f); Labor Code 21.119.*

b) Employment Postings

Moody Early Childhood Center shall not print or publish any notice or advertisement relating to school employment that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, or national origin, unless the characteristic is a bona fide occupational qualification. *42 U.S.C. 2000e-3(b); Labor Code 21.059.*

c) Harassment of Employees

Moody Early Childhood Center shall maintain a working environment free of harassment on the basis of a protected characteristics. *42 U.S.C. 2000e et seq.; 29 CFR 1606.8(a), 1604.11.*

d) Retaliation

Moody Early Childhood Center may not discriminate against any employee or applicant for employment because the employee or applicant has opposed any unlawful, discriminatory employment practices or participated in the investigation of any complaint related to an

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unlawful, discriminatory employment practice. *29 U.S.C. 623(d) (ADEA); 42 U.S.C. 2000e-3(a) (Title VII); 34 CFR 100.7(e) (Title VI); 34 CFR 110.34 (Age Act); 42 U.S.C. 12203 (ADA); Jackson v. Birmingham Bd. of Educ., 544 U.S. 167 (2005) (Title IX); Labor Code 21.055.*

e) Notices

The Superintendent or designee shall post in conspicuous places upon its premises a notice setting forth the information the Equal Employment Opportunity Commission deems appropriate to effectuate the purposes of the anti-discrimination laws. *29 U.S.C. 627; 42 U.S.C. 2000e-10.*

i. Section 504 Notice

The Superintendent or designee shall take appropriate steps to notify applicants and employees, including those with impaired vision or hearing, that Moody Early Childhood Center does not discriminate on the basis of disability.

The notice shall state:

1. That Moody Early Childhood Center does not discriminate in employment in its programs and activities; and
2. The identity of Moody Early Childhood Center's 504 Coordinator.

Methods of notification may include:

1. Posting of notices;
2. Publication in newspapers and magazines;
3. Placing notices in School publications; and
4. Distributing memoranda or other written communications.

If Moody Early Childhood Center publishes or uses recruitment materials containing general information that it makes available to applicants or employees, it shall include in those materials a statement of its non-discrimination policy.

34 CFR 104.8.

SEC. 2. AGE DISCRIMINATION

Moody Early Childhood Center may take an employment action on the basis of age pursuant to a bona fide seniority system or a bona fide employee benefit plan. However, a bona fide employee benefit plan shall not excuse the failure to hire any individual and no such benefit plan shall require or permit the involuntary retirement of any individual because of age. *29 U.S.C. 623(f); Labor Code 21.102.*

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SEC. 3. SEX DISCRIMINATION

a) *Gender Stereotypes*

Moody Early Childhood Center may not evaluate employees by assuming or insisting that they match the stereotype associated with their group. *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989).

b) *Pregnancy*

Moody Early Childhood Center shall treat women affected by pregnancy, childbirth, or related medical conditions the same for all employment-related purposes, including receipt of benefits under fringe benefit programs. *42 U.S.C. 2000e(k); 29 CFR 1604.10; Labor Code 21.106.*

c) *Equal Pay*

Moody Early Childhood Center may not pay an employee at a rate less than the rate paid to employees of the opposite sex for equal work on jobs the performance of which require equal skill, effort, or responsibility and which are performed under similar working conditions. This rule does not apply if the payment is pursuant to a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on any other factor other than sex. *29 U.S.C. 206(d); 34 CFR 106.54.*

SEC. 4. RELIGIOUS DISCRIMINATION

The prohibition against discrimination on the basis of religion includes all aspects of religious observances and practice, as well as religious belief, unless Moody Early Childhood Center demonstrates that it is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship to Moody Early Childhood Center's business. "Undue hardship" means more than a de minimus (minimal) cost. *42 U.S.C. 2000e(j); 29 CFR 1605.2; Labor Code 21.108.*

Moody Early Childhood Center may not substantially burden an employee's free exercise of religion, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *Civ. Prac. & Rem. Code 110.003.*

SEC. 5. DISABILITY DISCRIMINATION

Moody Early Childhood Center may not discriminate against a qualified individual on the basis of disability in job application procedures, hiring, advancement, or discharge of employees, compensation, job training, and other terms, conditions, and privileges of employment. *42 U.S.C. 12112(a), 12201(g); 29 U.S.C. 794(a); Labor Code 21.051, 21.105.*

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a) Discrimination Based on Lack of Disability

The Americans with Disabilities Act (“ADA”) and the Texas Commission on Human Rights Act do not provide a basis for a claim that an individual was subject to discrimination because of the individual’s lack of disability. *42 U.S.C. 12201(g); Labor Code 21.005(c)*.

Moody Early Childhood Center must take positive efforts, if it receives assistance under the Individuals with Disabilities Education Act (“IDEA”), to employ and advance in employment qualified individuals with disabilities in programs assisted by the IDEA. *34 CFR 300.177(b)*.

b) Definition of Disability

“Disability” means a physical or mental impairment that substantially limits one or more of an individual’s major life activities, a record of having such an impairment, or being regarded as having such an impairment.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

An individual meets the requirement of being “regarded as” having an impairment if the individual establishes that he or she has been subjected to a prohibited action because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. However, this provision does not apply to impairments that are transitory or minor. A transitory impairment is one with an actual or expected duration of six months or less. *42 U.S.C. 12102(1), (3), (4); 29 CFR 1630.2(g); Labor Code 21.002, 21.0021*.

c) Mitigating Measures

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, low-vision devices, prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

The ameliorative effects of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity. Ordinary eyeglasses and contact lenses are lenses that are intended to fully correct visual acuity or to eliminate refractive error.

42 U.S.C. 12102(1), (3), (4); 29 CFR 1630.2(g), (j)(1); Labor Code 21.002, .0021.

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d) Other Definitions

i. Physical or Mental Impairment

“Physical or mental impairment” means:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or
2. Any mental or psychological disorder, such as an intellectual disability (formerly termed “mental retardation”), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

29 C.F.R. 1630.3(h).

ii. Major Life Activities

“Major life activities” include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. “Major life activities” also include the operation of major bodily functions, including functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. *42 U.S.C. 12102(2); Labor Code 21.002.*

iii. Qualified Individual

“Qualified individual” means an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires. A written job description prepared before advertising or interviewing applicants for the job is evidence of the job’s essential functions. *42 U.S.C. 12111(8).*

e) Reasonable Accommodations

Moody Early Childhood Center shall make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability, unless Moody Early Childhood Center can demonstrate that the accommodation would impose an undue hardship on the operation of Moody Early Childhood Center. *42 U.S.C. 12112(b)(5); 29 CFR 1630.9; 29 U.S.C. 794; 34 CFR 104.11; Labor Code 21.128.*

“Reasonable accommodation” includes:

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1. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
2. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

42 U.S.C. 12111(9); 29 CFR 1630.2(o); 34 CFR 104.12(b).

“Undue hardship” means an action requiring significant difficulty or expense when considered in light of the nature and cost of the accommodation needed, overall financial resources of the affected facility and Moody Early Childhood Center, and other factors set out in law. *42 U.S.C. 12111(10); 29 CFR 1630.2(p); 34 CFR 104.12(c).*

f) Discrimination Based on Relationship

Moody Early Childhood Center shall not exclude or deny equal jobs or benefits to, or otherwise discriminate against, a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a family, business, social, or other relationship or association. *42 U.S.C. 12112(b)(4); 29 CFR 1630.8; 34 CFR 104.11.*

g) Illegal Drugs and Alcohol

The term “qualified individual with a disability” does not include any employee or applicant who is currently engaging in the illegal use of drugs, when Moody Early Childhood Center acts on the basis of such use.

i. Drug Testing

Moody Early Childhood Center is not prohibited from conducting drug testing of employees and applicants for the illegal use of drugs or making employment decisions based on the results of such tests. *42 U.S.C. 12114(c), (d); Labor Code 21.002(6)(A).*

ii. Alcohol Use

The term “qualified individual with a disability” does not include an individual who is an alcoholic and whose current use of alcohol prevents the employee from performing the duties of his or her job or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others. *42 U.S.C. 12114(a); 29 U.S.C. 705(20)(C); 29 CFR 1630.3(a); 28 CFR 35.104; Labor Code 21.002(6)(A).*

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h) Qualification Standards

i. Direct Threat to Health or Safety

As a qualification standard, Moody Early Childhood Center may require that an individual not pose a direct threat to the health or safety of other individuals in the workplace. “Direct threat” means a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation. *42 U.S.C. 12111(3); 29 CFR 1630.2(r); Labor Code 21.002(6)(B).*

ii. Vision Standards and Tests

Moody Early Childhood Center shall not use qualification standards, employment tests, or other selection criteria based on an individual’s uncorrected vision unless the standard, test, or other selection criteria, as used by Moody Early Childhood Center, is shown to be job-related for the position in question and consistent with business necessity. *42 U.S.C. 12113(c); Labor Code 21.115(b).*

iii. Communicable Diseases

Moody Early Childhood Center may refuse to assign or continue to assign an individual to a job involving food handling if the individual has an infectious or communicable disease that is transmitted to others through handling of food. *42 U.S.C. 12113(d); 29 U.S.C. 705(20)(D); 29 CFR 1630.16(e); Labor Code 21.002(6)(B).*

i) Service Animals

Moody Early Childhood Center shall comply with the reasonable accommodation requirements of Title I of the ADA and/or Section 504 of the Rehabilitation Act with respect to service animals. *28 C.F.R. 35.140.*

SEC. 6. MILITARY SERVICE

Moody Early Childhood Center shall not deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of membership in a uniformed service, performance in a uniformed service, application for uniformed service, or obligation to a uniformed service. Moody Early Childhood Center shall not take adverse employment action or discriminate against any person who takes action to enforce protections afforded by the Uniformed Services Employment and Re-employment Rights Act (USERRA). *38 U.S.C. 4311.*

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SEC. 7. GENETIC NONDISCRIMINATION

a) Definitions

For the purpose of the Genetic Information Nondiscrimination Act (GINA), “genetic information” means information about:

1. An individual’s genetic tests;
2. The genetic tests of that individual’s family members;
3. The manifestation of disease or disorder in family members of the individual (family medical history);
4. An individual’s request for or receipt of genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; or
5. The genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.

“Genetic information” ***does not include*** information about the sex or age of the individual, the sex or age of family members, or information about the race or ethnicity of the individual or family members that is not derived from a genetic test.

29 CFR 1635.3(c).

“Genetic test” means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detects genotypes, mutations, or chromosomal changes. Genetic tests include, but are not limited to:

1. A test to determine whether someone has the BRCA1 or BRCA2 variant evidencing a predisposition to breast cancer, a test to determine whether someone has a genetic variant associated with hereditary nonpolyposis colon cancer, and a test for a genetic variant for Huntington’s Disease;
2. Carrier screening for adults using genetic analysis to determine the risk of conditions such as cystic fibrosis, sickle cell anemia, spinal muscular atrophy, or fragile X syndrome in future offspring;
3. Amniocentesis and other evaluations used to determine the presence of genetic abnormalities in a fetus during pregnancy;
4. Newborn screening analysis that uses DNA, RNA, protein, or metabolite analysis to detect or indicate genotypes, mutations, or chromosomal changes, such as a test for PKU performed so that treatment can begin before a disease manifests;
5. Pre-implantation genetic diagnosis performed on embryos created using in vitro fertilization;

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6. Pharmacogenetic tests that detect genotypes, mutations, or chromosomal changes that indicate how an individual will react to a drug or a particular dosage of a drug;
7. DNA testing to detect genetic markers that are associated with information about ancestry; and
8. DNA testing that reveals family relationships, such as paternity.

Examples of tests or procedures that are not genetic tests are:

1. An analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes;
2. A medical examination that tests for the presence of a virus that is not composed of human DNA, RNA, chromosomes, proteins, or metabolites;
3. A test for infectious and communicable diseases that may be transmitted through food handling;
4. Complete blood counts, cholesterol tests, and liver-function tests.

A test for the presence of alcohol or illegal drugs is not a genetic test. However, a test to determine whether an individual has a genetic predisposition for alcoholism or drug use is a genetic test.

29 CFR 1635.3(f).

b) Notices

The Superintendent or designee shall post in conspicuous places on school premises, where notices to employees and applicants for employment are customarily posted, a notice setting forth excerpts from or summaries of the pertinent provisions of the GINA regulation and information pertinent to the filing of a complaint. *29 CFR 1635.10(c).*

c) Prohibited Practices

i. Discrimination

Moody Early Childhood Center shall not discriminate against an individual on the basis of genetic information in regard to hiring, discharge, compensation, or terms, conditions, or privileges of employment. *42 U.S.C. 2000ff-1(a); 29 CFR 1635.4.*

ii. Retaliation

Moody Early Childhood Center shall not discriminate against an individual because the individual has opposed any act or practice made unlawful by GINA or because the individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under GINA. *41 U.S.C. 2000ff-6(f); 29 CFR 1635.7.*

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iii. Acquisition

Except as set forth below or otherwise provided in the GINA regulations, Moody Early Childhood Center shall not request, require, or purchase genetic information of an individual or family member of the individual. *42 U.S.C. 2000ff-1(b); 29 CFR 1635.8(a)*.

“Request” includes:

1. Conducting an Internet search on an individual in a way that is likely to result Moody Early Childhood Center’s obtaining genetic information;
2. Actively listening to third-party conversations or searching an individual’s personal effects for the purpose of obtaining genetic information; and
3. Making requests for information about an individual’s current health status in a way that is likely to result in Moody Early Childhood Center’s obtaining genetic information.

29 CFR 1635.8(a).

iv. Disclosure

Except as set forth in the GINA regulations, Moody Early Childhood Center shall not disclose the genetic information of an employee, regardless of how Moody Early Childhood Center obtained the information. *29 CFR 1635.9(b)*.

d) Manifested Condition

Moody Early Childhood Center shall not be considered to be in violation of the GINA regulations based on the use, acquisition, or disclosure of medical information about a manifested disease, disorder, or pathological condition of an employee, even if the disease, disorder, or pathological condition has or may have a genetic basis or component. However, genetic information about a manifested disease, disorder, or pathological condition is subject to the requirements and prohibitions of GINA. *29 CFR 1635.12*.

“Manifestation” or “manifested” means, with respect to a disease, disorder, or pathological condition, that an individual has been or could reasonably be diagnosed with the disease, disorder, or pathological condition by a health-care professional with appropriate training and expertise in the field of medicine involved. A disease, disorder, or pathological condition is not manifested if the diagnosis is based principally on genetic information. *29 CFR 1635.3(g)*.

e) Inadvertent Acquisition

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where Moody Early Childhood Center inadvertently requests or requires genetic

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information of the individual or family member of the individual. This exception applies in, but is not necessarily limited to, situations where a manager or supervisor learns genetic information about an individual by:

1. Overhearing a conversation between the individual and others;
2. Receiving the information during a casual conversation, including in response to an ordinary expression of concern that is the subject of the conversation. This exception does not apply where a supervisor follows up with questions that are probing in nature, such as whether other family members have the condition or whether the individual has been tested for the condition, because the supervisor or official should know that these questions are likely to result in the acquisition of genetic information;
3. Receiving unsolicited information (e.g., where a supervisor receives an unsolicited e-mail about the health of an employee's family member from a co-worker); or
4. Accessing a social media platform that the supervisor was given permission to access by the creator of the profile at issue (e.g., a supervisor and employee are connected on a social networking site and the employee provides family medical history on his page).

29 CFR 1635.8(b)(1)(ii).

f) Requests for Medical Information

If Moody Early Childhood Center acquires genetic information in response to a lawful request for medical information, the acquisition of genetic information will not generally be considered inadvertent unless Moody Early Childhood Center directs the individual and/or health-care provider from whom it requested medical information not to provide genetic information. *29 CFR 1635.8(b)(1)(i)(A).*

Situations involving lawful requests for medical information include, for example:

1. Requests for documentation to support a request for reasonable accommodation under federal, state, or local law where the disability and/or need for accommodation is not obvious, the documentation is no more than is sufficient to establish that an individual has a disability and needs a reasonable accommodation, and the documentation relates only to the impairment that the individual claims to be a disability that requires reasonable accommodation;
2. Requests for medical information as required, authorized, or permitted by federal, state, or local law, such as where an employee requests leave under the Family and Medical Leave Act ("FMLA") to attend to the employee's own serious health condition or where an employee complies with the FMLA's employee return to work certification requirements; or
3. Requests for documentation to support leave that is not governed by federal, state, or local laws requiring leave, as long as the documentation required to support the request

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otherwise complies with the requirements of the ADA and other laws limiting Moody Early Childhood Center’s access to medical information.

29 CFR 1635.8(b)(1)(i)(D).

i. Safe Harbor

Any receipt of genetic information in response to a request for medical information shall be deemed inadvertent if Moody Early Childhood Center uses language such as the following:

“The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. ‘Genetic information,’ as defined by GINA, includes an individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.”

Moody Early Childhood Center’s failure to give such a notice or to use this or similar language will not prevent Moody Early Childhood Center from establishing that a particular receipt of genetic information was inadvertent if the request for medical information was not likely to result in Moody Early Childhood Center’s obtaining genetic information (for example, where an overly broad response is received in response to a tailored request for medical information).

29 CFR 1635.8(b)(1)(i)(B), (C).

g) Employment Examinations

The prohibition on acquisition of genetic information applies to medical examinations related to employment. Moody Early Childhood Center shall tell health-care providers not to collect genetic information, including family medical history, as part of a medical examination intended to determine the ability to perform a job. *29 CFR 1635.8(d).*

i. Remedial Measures

Moody Early Childhood Center shall take additional reasonable measures within its control if it learns that genetic information is being requested or required in medical examinations related to employment. Such reasonable measures may depend on the facts and circumstances under which a request for genetic information was made, and may include no longer using the services of a

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health-care professional who continues to request or require genetic information during medical examinations after being informed not to do so. *29 CFR 1635.8(d)*.

h) Health or Genetic Services

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where Moody Early Childhood Center offers health or genetic services, including services offered as part of a voluntary wellness program, if the conditions at 29 CFR 1635.8(b)(2) are met.

Moody Early Childhood Center may not offer a financial inducement for individuals to provide genetic information but may offer financial inducements for completion of health risk assessments that include questions about family medical history or other genetic information. Moody Early Childhood Center shall make clear, in language reasonably likely to be understood by those completing the health risk assessment, that the inducement will be made available whether or not the participant answers questions regarding genetic information.

Moody Early Childhood Center may offer financial inducements to encourage individuals who have voluntarily provided genetic information (e.g., family medical history) that indicates that they are at increased risk of acquiring a health condition in the future to participate in disease management programs or other programs that promote healthy lifestyles, and/or to meet particular health goals as part of a health or genetic service. However, Moody Early Childhood Center must also offer these programs to individuals with current health conditions and/or to individuals whose lifestyle choices put them at increased risk of developing a condition.

29 CFR 1635.8(b)(2).

i) Leave Requests

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where Moody Early Childhood Center requests family medical history to comply with the certification provisions of the FMLA or state or local family and medical leave laws, or pursuant to a policy (even in the absence of requirements of federal, state, or local leave laws) that permits the use of leave to care for a sick family member and that requires all employees to provide information about the health condition of the family member to substantiate the need for leave. *29 CFR 1635.8(b)(3)*.

j) Publicly Available Information

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where Moody Early Childhood Center acquires genetic information from documents that are commercially and publicly available for review or purchase, including newspapers, magazines, periodicals, or books, or through electronic media, such as information

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communicated through television, movies, or the Internet, except that this exception does not apply to:

1. Medical databases, court records, or research databases available to scientists on a restricted basis;
2. Genetic information acquired through sources with limited access, such as social networking sites and other media sources which require access permission from a specific individual or where access is conditioned on membership in a particular group, unless Moody Early Childhood Center can show that access is routinely granted to all who request it;
3. Genetic information obtained through commercially and publicly available sources if Moody Early Childhood Center sought access to those sources with the intent of obtaining genetic information; or
4. Genetic information obtained through media sources, whether or not commercially and publicly available, if Moody Early Childhood Center is likely to acquire genetic information by accessing those sources, such as Web sites and online discussion groups that focus on issues such as genetic testing of individuals and genetic discrimination.

29 CFR 1635.8(b)(4).

k) Workplace Monitoring

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where Moody Early Childhood Center acquires genetic information for use in the genetic monitoring of the biological effects of toxic substances in the workplace. Such monitoring must meet the criteria at 29 CFR 1635.8(b)(5).

l) Inquiries Made of Family Members

Moody Early Childhood Center does not violate the GINA regulations when it requests, requires, or purchases information about a manifested disease, disorder, or pathological condition of an employee whose family member is also employed by Moody Early Childhood Center or who is receiving health or genetic services on a voluntary basis. For example, Moody Early Childhood Center does not violate the GINA regulations by asking someone whose sister also works for Moody Early Childhood Center to take a post-offer medical examination that does not include requests for genetic information. *29 CFR 1635.8(c).*

m) Confidentiality

The Superintendent or designee shall maintain genetic information in writing about an employee on forms and in medical files (including where the information exists in electronic forms and files) that are separate from personnel files. Moody Early Childhood Center must treat such information as a confidential medical record. Moody Early Childhood Center may maintain

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genetic information about an employee in the same file in which it maintains confidential medical information under the ADA.

Genetic information placed in personnel files before November 21, 2009, need not be removed. Moody Early Childhood Center will not be liable under the GINA regulations for the mere existence of the information in the file. However, the prohibitions on use and disclosure of genetic information apply to all genetic information that meets the statutory definition, including genetic information requested, required, or purchased before November 21, 2009.

Genetic information that Moody Early Childhood Center receives orally need not be reduced to writing but may not be disclosed, except as permitted by 29 CFR part 1635.

Genetic information that Moody Early Childhood Center acquires through sources that are commercially and publicly available, as provided by 29 CFR 1635.8(b)(4), is not considered confidential genetic information but may not be used to discriminate against an individual.

29 CFR 1635.9(a).

n) Disclosure Permitted

Moody Early Childhood Center may disclose genetic information, regardless of how such information was obtained (except for genetic information acquired through commercially and publicly available sources), as follows:

1. To the employee (or family member if the family member is receiving genetic services) about whom the information pertains upon receipt of the employee's written request;
2. To an occupational or other health researcher if the research is conducted in compliance with the regulations and protections at 45 CFR part 46;
3. In response to an order of a court. Moody Early Childhood Center may disclose only the genetic information expressly authorized by the order. If the order was secured without the knowledge of the employee to whom the information refers, Moody Early Childhood Center shall inform the employee of the order and any genetic information that was disclosed pursuant to the order;
4. To government officials investigating compliance with Title II of GINA if the information is relevant to the investigation;
5. To the extent the information is disclosed in support of an employee's compliance with the certification provisions of the FMLA or certification requirements under state family and medical leave laws; or
6. To a federal, state, or local public health agency, only with regard to information about the manifestation of a disease or disorder that concerns a contagious disease that presents an imminent hazard of death or life-threatening illness, provided that the individual whose family member is the subject of the disclosure is notified of such disclosure.

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29 CFR 1635.9(b).

o) Relationship to HIPAA Privacy Regulations

The GINA regulations do not apply to the use or disclosure of genetic information that is protected health information subject to regulation under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). *29 CFR 1635.9(c).*

SEC. 8. BANKRUPTCY DISCRIMINATION

Moody Early Childhood Center shall not terminate the employment of, or discriminate with respect to employment against, an individual who is or has been a debtor under federal bankruptcy laws, or an individual associated with such debtor or bankrupt, solely because such debtor or bankrupt:

1. Is or has been a debtor under federal bankruptcy laws;
2. Has been insolvent before the commencement of a case under federal bankruptcy laws or during the case but before the grant or denial of a discharge; or
3. Has not paid a debt that is dischargeable in a case under federal bankruptcy laws.

11 U.S.C. 525(b).

SEC. 9. GRIEVANCE POLICIES

The Superintendent shall provide grievance procedure(s) concerning the following:

a) Section 504

That incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act. *34 CFR 104.7(b), 104.11.*

b) Americans with Disabilities Act

Providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the ADA. *28 CFR 35.107, 35.140.*

c) Title IX

Providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX. *34 CFR 106.8(b); North Haven Board of Education v. Bell, 456 U.S. 512 (1982).*

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SEC. 10. COMPLIANCE COORDINATOR

Moody Early Childhood Center shall designate at least one employee to coordinate its efforts to comply with Title IX, Section 504, the Age Act, and the ADA. The Superintendent shall notify all employees of the name, office address, and telephone number of the employee(s) so designated. *34 CFR 104.7(b), 104.11; 28 CFR 35.107, 35.140; 34 CFR 106.8(b).*

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SEC. 1. NONDISCRIMINATION STATEMENT

Moody Early Childhood Center strictly prohibits discrimination, including harassment, against an employee on the basis of race, color, religion, gender, national origin, age, disability, genetic information, or any other legally protected classification. Retaliation against anyone involved in the complaint process is also a violation of Moody Early Childhood Center policy.

For purposes of this policy, “employee” includes current employees, volunteers and applicants for employment.

SEC. 2. GENERAL NON-DISCRIMINATION POLICY

a) Prohibited Conduct

In this policy, the term “prohibited conduct” includes discrimination, harassment, and/or retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

i. Prohibited Discrimination

Discrimination is defined as conduct directed at an employee on the basis of race, color, religion, gender, national origin, age, disability, genetic information or any other basis prohibited by law, that adversely affects his or her employment.

ii. Prohibited Harassment

Prohibited harassment of an employee is defined as unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information where:

1. Enduring the offensive conduct becomes a condition of continued employment; or
2. The conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile or abusive.

Harassment may also occur when unwelcome conduct based on an employee’s protected characteristic is so severe, persistent, or pervasive that the conduct:

1. Has the purpose or effect of unreasonably interfering with the employee’s work performance;
2. Creates an intimidating, threatening, hostile, or offensive work environment; or
3. Otherwise adversely affects the employee’s performance, environment, or employment opportunities.

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Prohibited harassment may include, but is not limited to, offensive or derogatory language directed at another person's religious beliefs or practices, accent, skin color, gender identity, or need for workplace accommodation; threatening or intimidating conduct; offensive jokes, name calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other stereotypes; or other types of aggressive conduct such as theft or damage to property.

iii. Prohibited Gender-Based Harassment

Gender-based harassment includes physical, verbal, or nonverbal conduct based on an employee's gender, the employee's expression of characteristics perceived as stereotypical for the employee's gender, or the employee's failure to conform to stereotypical notions of femininity or masculinity.

Examples of gender-based harassment, regardless of the employee's or alleged harasser's actual or perceived gender, may include offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; threatening or intimidating conduct; or other kinds of aggressive conduct such as theft or damage to property.

iv. Prohibited Retaliation

Moody Early Childhood Center expressly prohibits retaliation against an employee who makes a claim alleging to have experienced discrimination or harassment, or an employee who, in good faith, makes a report, serves as a witness, or otherwise participates in an investigation.

Examples of retaliation may include termination, refusal to hire, demotion, and denial of promotion. Retaliation may also include threats, unjustified negative evaluations, unjustified negative references, or increased surveillance.

v. False Claims

An employee who intentionally makes a false claim, offers false statements, or refuses to cooperate or participate in an investigation regarding discrimination or harassment is subject to discipline, up to and including termination of employment.

b) Reporting Prohibited Conduct (Non-Sexual Harassment)

An employee who believes that he or she has experienced prohibited conduct, or that another employee has experienced prohibited conduct, should immediately report the alleged conduct to the Principal or his or her supervisor, or to one of the school officials identified below.

In this policy, "prohibited conduct" includes discrimination, harassment, and/or retaliation, even if the behavior does not rise to the level of unlawful conduct.

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The reporting procedures in this Section 2 will apply to all allegations of prohibited conduct other than allegations of harassment prohibited by Title IX. For allegations of sex-based harassment that, if proved, would meet the definition of sexual harassment under Title IX (including sexual harassment), see the procedures below at Section 3, Sexual Harassment Prohibited – Title IX Policy.

i. Title IX Coordinator

The Title IX Coordinator is responsible for coordinating Moody Early Childhood Center’s efforts to comply with its responsibilities under Title IX with respect to discrimination based on sex, including sexual harassment. Moody Early Childhood Center designates the following person(s) to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended:

Karin Miller, Position: Executive Director, Address: 1110 21st Street, Galveston, Texas 77550, Telephone: (409) 761-6930.

ii. ADA/Section 504 Coordinator

Moody Early Childhood Center designates the following person to coordinate its efforts to comply with legal requirements concerning discrimination on the basis of disability:

Karin Miller, Position: Executive Director, Address: 1110 21st Street, Galveston, Texas 77550, Telephone: (409) 761-6930.

iii. Title VII/Age Coordinator

Moody Early Childhood Center designates the following person to coordinate its efforts to comply with legal requirements concerning discrimination on the basis of race, color, national origin, and age:

Karin Miller, Position: Executive Director, Address: 1110 21st Street, Galveston, Texas 77550, Telephone: (409) 761-6930.

iv. All Other Complaints

Reports concerning prohibited conduct against the Title IX Coordinator, ADA/Section 504 Coordinator, and/or Title VII/Age Coordinator may be made to the Superintendent or designee. Reports concerning prohibited conduct against the Superintendent or designee may be directed to the Board.

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c) Timely Reporting

Employees shall report prohibited conduct as soon as possible after the alleged act or knowledge of the alleged act.

Any supervisor who receives a report of prohibited conduct shall immediately inform the appropriate Moody Early Childhood Center official identified above.

d) Investigating Reports of Prohibited Conduct

Moody Early Childhood Center may request, but not insist upon, a written report describing any alleged prohibited conduct. If a report is made orally, the Moody Early Childhood Center official receiving the report shall reduce the report to writing.

After receiving a report or notice of a report, the appropriate Compliance Coordinator shall determine if the allegations, if proven, would constitute prohibited conduct under this policy. If so, the Compliance Coordinator shall immediately authorize or conduct an investigation, regardless of whether a criminal or regulatory investigation concerning the allegations is pending. The investigation may be conducted by the Compliance Coordinator or designee, or by a third party authorized by Moody Early Childhood Center, such as an attorney. The employee's Principal or supervisor shall be notified of the investigation, if appropriate.

The investigation may consist of personal interviews of individuals with knowledge of the allegations, including the person making the report, and the person against whom the report is filed. The investigation may also include consideration of documents or other information concerning the allegations.

If appropriate, Moody Early Childhood Center shall take prompt action to prevent prohibited conduct from occurring during the course of the investigation.

i. Concluding the Investigation

Investigations of prohibited conduct should be completed as soon as reasonably possible and appropriate under the circumstances. The investigator shall prepare a written report of the investigation, and provide the report to the Moody Early Childhood Center official overseeing the investigation.

ii. School Action

If an investigation indicates that prohibited conduct occurred, Moody Early Childhood Center shall promptly take appropriate disciplinary or corrective action to address the conduct.

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Moody Early Childhood Center may also take action following an investigation, even if the alleged conduct did not rise to the level of prohibited or unlawful conduct.

iii. Confidentiality

Moody Early Childhood Center shall respect the privacy of all individuals involved in a report or investigation of prohibited conduct. Limited disclosures may be necessary.

iv. Appeal

A complainant who is dissatisfied with the outcome of an investigation may appeal through Board Policy (Employee Complaints and Grievances – General).

*e) **Records Retention***

Copies of reports alleging prohibited conduct, investigation reports, and other related records shall be maintained for at least three years.

SEC. 3. SEXUAL HARASSMENT PROHIBITED – TITLE IX POLICY

*a) **Definitions for Title IX Terms***

i. Actual Knowledge

“Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to Moody Early Childhood Center’s Title IX Coordinator or any Moody Early Childhood Center official who has authority to institute corrective measures on behalf of Moody Early Childhood Center, or to any employee of an elementary and secondary school. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of Moody Early Childhood Center with actual knowledge is the respondent (as that term is defined below). The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of Moody Early Childhood Center. “Notice” as used in this definition includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator. *34 C.F.R. 106.30(a)*.

ii. Complainant

“Complainant” means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. *34 C.F.R. 106.30(a)*.

iii. Consent

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“Consent” is not currently defined by the Title IX regulations, nor do the regulations require Moody Early Childhood Center to adopt a particular definition of consent with respect to sexual assault. *34 C.F.R. 106.30(a)*.

iv. Deliberate Indifference Standard

If Moody Early Childhood Center has actual knowledge of sexual harassment in an education program or activity of Moody Early Childhood Center against a person in the United States, it must respond promptly in a manner that is not deliberately indifferent. Moody Early Childhood Center is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances. *34 C.F.R. 106.44*.

v. Education Program or Activity

For purposes of this Title IX policy, “education program or activity” includes locations, events, or circumstances over which Moody Early Childhood Center exercised substantial control over both the respondent and the context in which sexual harassment occurs. *34 C.F.R. 106.44*.

vi. Formal Complaint

“Formal complaint” means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that Moody Early Childhood Center investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in Moody Early Childhood Center’s education program or activity. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by email, by using the contact information for the Title IX Coordinator provided by Moody Early Childhood Center, and by any additional method designated by Moody Early Childhood Center. As used in this definition, the term “document filed by a complainant” means a document or electronic submission (such as by email or through an online portal provided for this purpose by Moody Early Childhood Center) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party to the Title IX formal complaint, and must comply with the requirements of the Title IX formal process, including the informal resolution process. *34 C.F.R. 106.30(a)*.

vii. Respondent

“Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. *34 C.F.R. 106.30(a)*.

viii. Sexual Harassment

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“Sexual harassment” means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of Moody Early Childhood Center conditioning the provision of an aid, benefit, or service of Moody Early Childhood Center On an individual’s participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Moody Early Childhood Center’s education program or activity; or
3. “Sexual assault” as defined in [20 U.S.C. 1091\(f\)\(6\)\(A\)\(v\)](#); “dating violence” as defined in [34 U.S.C. 12291\(a\)\(10\)](#); “domestic violence” as defined in [34 U.S.C. 12291\(a\)\(8\)](#); or “stalking” as defined in [34 U.S.C. 12291\(a\)\(30\)](#).

34 C.F.R. 106.30(a).

ix. Supportive Measures

'Supportive measures' ' means nondisciplinary, nonpunitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to Moody Early Childhood Center’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Moody Early Childhood Center’s educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Moody Early Childhood Center must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair Moody Early Childhood Center’s ability to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. *34 C.F.R. 106.30(a).*

b) Requirement to Designate Title IX Coordinator

Moody Early Childhood Center must designate at least one employee as a Title IX Coordinator to coordinate Moody Early Childhood Center’s efforts to comply with its requirements under Title IX.

c) Notification of Title IX Policy

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Moody Early Childhood Center must notify applicants for admission and employment, students, parents or legal guardians of students, and all professional organizations holding professional agreements with Moody Early Childhood Center of the name or title, office address, email address, and telephone number of the employee or employees designated as the Title IX Coordinator.

Moody Early Childhood Center must also notify the individuals noted above that Moody Early Childhood Center does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required under Title IX not to discriminate in such a manner. The notification must also state that the requirement not to discriminate in the education program or activity extends to admission and employment, and that inquiries about the application of Title IX to Moody Early Childhood Center may be referred to the designated Title IX Coordinator, to the assistant secretary for civil rights of the Department of Education, or both.

34 C.F.R. 106.8(a), (b)(1).

d) Handbook Information and Website Postings

Moody Early Childhood Center must prominently display the contact information required to be listed for the Title IX Coordinator and the nondiscrimination policy described in “Notification of Title IX Policy,” above, on the Moody Early Childhood Center website, if any, and in the Employee Handbook and Student / Parent Handbook.

Moody Early Childhood Center may not use or distribute a publication stating that Moody Early Childhood Center treats applicants, students, or employees differently on the basis of sex except when such treatment is permitted by Title IX.

34 C.F.R. 106.8(b)(2).

e) Reporting Sex Discrimination / Sexual Harassment

Any person may report sex discrimination, including sexual harassment, whether or not the reporting person is the person alleged to be the victim of conduct that may constitute sex discrimination or sexual harassment. Reports may be made in person, by mail, by telephone, or by email through the contact information listed for Moody Early Childhood Center’s Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. Reports may be made at any time (including during non business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator. *34 C.F.R. 106.8(a).*

f) Complaint Procedures

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Moody Early Childhood Center must adopt and publish procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by Title IX, and a formal Title IX complaint process that complies with applicable federal regulations.

Moody Early Childhood Center must provide notice to the individuals identified in Sec. 3(c) above of the school's procedures and Title IX formal complaint process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how Moody Early Childhood Center will respond.

The requirements of this provision apply only to sex discrimination occurring against a person in the United States.

34 C.F.R. 106.8(c)-(d).

g) Response by Title IX Coordinator

The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, , inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

i. Required Supportive Measures

Moody Early Childhood Center's response must treat complainants and respondents equitably by offering supportive measures and by following a grievance process that complies with the Title IX regulations (*see* Process for Formal Title IX Complaint, Sec. 3(h) below) before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.

34 C.F.R. 106.44(a).

ii. Response to Formal Complaint

In response to a formal complaint, Moody Early Childhood Center must follow a process that complies with the Title IX regulations (*see* Process for Formal Title IX Complaint, Sec. 3(h) below).

34 C.F.R. 106.44(b)(1).

iii. Emergency Removals

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Moody Early Childhood Center is not precluded from removing a respondent from its education program or activity on an emergency basis, provided that Moody Early Childhood Center:

1. Undertakes an individualized safety and risk analysis;
2. Determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal; and
3. Provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

This may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

34 C.F.R. 106.44(c).

iv. Administrative Leave

Moody Early Childhood Center is not prohibited from placing a non student employee respondent on administrative leave during the pendency of a Title IX formal complaint. This does not modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act. *34 C.F.R. 106.44(d).*

*h) **Process for Title IX Formal Complaint***

For purposes of addressing formal complaints of sexual harassment, Moody Early Childhood Center's process must comply with the requirements listed in this section. Any provisions, rules, or practices other than those required by the Title IX regulations or this policy that Moody Early Childhood Center adopts as part of its process for handling formal complaints of sexual harassment must apply equally to both parties. *34 C.F.R. 106.45(b).*

Moody Early Childhood Center's Title IX formal complaint process must:

1. Treat complainants and respondents equally by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a process that complies with the Title IX regulations before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. Remedies must be designed to restore or preserve equal access to Moody Early Childhood Center's education program or activity. Such remedies may include the same individualized services described as supportive measures; however, remedies need not be nondisciplinary or non punitive and need not avoid burdening the respondent.

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2. Require an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations may not be based on a person’s status as a complainant, respondent, or witness.
3. Require that any individual designated by Moody Early Childhood Center as a Title IX Coordinator, investigator, decision-maker, or any person designated by Moody Early Childhood Center to facilitate an informal resolution process, not to have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Moody Early Childhood Center must ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process receive training on the definition of sexual harassment, the scope of Moody Early Childhood Center’s education program or activity, how to conduct an investigation and Title IX formal complaint process (including hearings, appeals, and informal resolution processes, as applicable), and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Moody Early Childhood Center must ensure that decision-makers receive training on any technology to be used at a live hearing, if any, and on issues of relevance of questions and evidence, including when questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant. Moody Early Childhood Center must also ensure that investigators receive training on relevance to create an investigative report that fairly summarizes relevant evidence. Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.
4. Include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Title IX formal complaint process.
5. Include reasonably prompt timeframes for concluding the grievance process, including reasonably prompt timeframes for filing and resolving appeals and informal resolution processes if Moody Early Childhood Center offers informal resolution processes, and a process that allows for the temporary delay of the Title IX formal complaint process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good causes may include considerations such as the absence of a party, a party’s advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.
6. Describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that Moody Early Childhood Center may implement following any determination of responsibility.
7. State whether the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard or the clear and convincing evidence standard, apply the same standard of evidence for formal complaints against students

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as for formal complaints against employees, including faculty, and apply the same standard of evidence to all formal complaints of sexual harassment.

8. Include the procedures and permissible bases for the complainant and respondent to appeal.
9. Describe the range of supportive measures available to complainants and respondents.
10. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally-recognized privilege, unless the person holding such privilege has waived the privilege.

34 C.F.R. 106.45(b)(1).

i. Notice of Allegations

Upon receipt of a formal complaint, Moody Early Childhood Center must provide the following written notice to the parties who are known:

1. Notice of Moody Early Childhood Center’s Title IX formal complaint process, including any informal resolution process.
2. Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include:
 - a. The identities of the parties involved in the incident, if known;
 - b. The conduct allegedly constituting sexual harassment; and
 - c. The date and location of the alleged incident, if known.

The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Title IX formal complaint process. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney and may inspect and review evidence. The written notice must inform the parties of any provision in Moody Early Childhood Center’s Code of Conduct that prohibits knowingly making false statements or knowingly submitting false information during the Title IX formal complaint process.

If, in the course of an investigation, Moody Early Childhood Center decides to investigate allegations about the complainant or respondent that are not included in the notice of allegations, Moody Early Childhood Center must provide notice of the additional allegations to the parties whose identities are known.

34 C.F.R. 106.45(b)(2).

ii. Dismissal of Formal Complaint

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Moody Early Childhood Center must investigate the allegations in a formal complaint.

If the conduct alleged in the formal complaint would not constitute sexual harassment even if proved, did not occur in Moody Early Childhood Center’s education program or activity, or did not occur against a person in the United States, then Moody Early Childhood Center must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX; such a dismissal does not preclude action under another provision of Moody Early Childhood Center’s Code of Conduct.

Moody Early Childhood Center may dismiss the formal complaint or any allegations therein if, at any time during the investigation or hearing (if applicable):

1. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
2. The respondent is no longer enrolled or employed by Moody Early Childhood Center; or
3. Specific circumstances prevent Moody Early Childhood Center from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal of a formal complaint, Moody Early Childhood Center must promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties.

34 C.F.R. 106.45(b)(3).

iii. Consolidation of Formal Complaints

Moody Early Childhood Center may consolidate formal complaints as to allegations of sexual harassment against more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a Title IX formal complaint process involves more than one complainant or more than one respondent, references in this section to the singular “party,” “complainant,” or “respondent” include the plural, as applicable. *34 C.F.R. 106.45(b)(4).*

iv. Investigating Formal Complaints

When investigating a formal complaint and throughout the Title IX formal complaint process, Moody Early Childhood Center must:

1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Moody Early Childhood Center and not on the parties, provided that Moody Early Childhood Center cannot access,

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- consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless Moody Early Childhood Center obtains that party's voluntary, written consent to do so for a Title IX formal complaint. If a party is not an "eligible student," as defined in the FERPA regulations, Moody Early Childhood Center must obtain the voluntary, written consent of a "parent," as defined in the FERPA regulations.
2. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
 3. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
 4. Provide the parties with the same opportunities to have others present during any Title IX formal complaint proceeding, including the opportunity to be accompanied to any related or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of the advisor for either the complainant or respondent in any meeting or Title IX formal complaint proceeding; however, Moody Early Childhood Center may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
 5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings (if applicable), investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
 6. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which Moody Early Childhood Center does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, Moody Early Childhood Center must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least ten days to submit a written response, which the investigator will consider prior to completion of the investigative report. Moody Early Childhood Center must make all such evidence subject to the parties' inspection and review available at any hearing (if applicable) to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
 7. Create an investigative report that fairly summarizes relevant evidence and, at least ten days prior to a hearing (if a hearing is required or otherwise provided) or other time of determination regarding responsibility, send to each party and the party's

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advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

34 C.F.R. 106.45(b)(5).

v. Hearings

Moody Early Childhood Center’s Title IX formal complaint process may, but need not, provide for a hearing. With or without a hearing, after Moody Early Childhood Center has sent to the investigate report to the parties and before reaching a determination regarding responsibility, the decision-maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. With or without a hearing, questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant’s prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant’s prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant. *34 C.F.R. 106.45(b)(6)(ii).*

vi. Determination Regarding Responsibility

The decision-maker(s), who cannot be the same person(s) as the Title IX Coordinator or the investigator(s), must issue a written determination regarding responsibility. To reach this determination, Moody Early Childhood Center must apply the same standard of evidence described at “Process for Title IX Formal Complaint, Sec. 3(h) above. The written determination must include:

1. Identification of the allegations potentially constituting sexual harassment.
2. A description of the procedural steps taken from receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held (if any).
3. Findings of fact supporting the determination.
4. Conclusions regarding the application of Moody Early Childhood Center’s Code of Conduct to the facts.
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions Moody Early Childhood Center imposes on the respondent, and whether remedies designed to restore or preserve equal access to Moody Early Childhood Center’s education program or activity will be provided by Moody Early Childhood Center to the complainant.

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6. Moody Early Childhood Center's procedures and permissible bases for the complainant and respondent to appeal.

Moody Early Childhood Center must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that Moody Early Childhood Center provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

34 C.F.R. 106.45(b)(7)(i)-(iii).

The Title IX Coordinator is responsible for effective implementation of any remedies identified in a determination regarding responsibility. *34 C.F.R. 106.45(b)(7)(iv).*

vii. Appeals

Moody Early Childhood Center must offer both parties an appeal from a determination regarding responsibility, and from Moody Early Childhood Center's dismissal of a formal complaint or any allegations therein, on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination on responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Moody Early Childhood Center may offer an appeal equally to both parties on additional bases.

As to all appeals, Moody Early Childhood Center must:

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
3. Ensure that the decision-maker(s) for the appeal complies with standards regarding conflict of interest and bias found in the Title IX regulations (as discussed in "Process for Formal Title IX Complaint," Sec. 3(h) above);
4. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
5. Issue a written decision describing the result of the appeal and the rationale for the result; and

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6. Provide the written decision simultaneously to both parties.

34 C.F.R. 106.45(b)(8).

viii. Informal Resolution

Moody Early Childhood Center may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with Title IX. Similarly, Moody Early Childhood Center may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility, Moody Early Childhood Center may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication.

With respect to informal resolution, Moody Early Childhood Center must provide written notice to the parties disclosing:

1. The allegations;
2. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
3. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Moody Early Childhood Center also must obtain the parties' voluntary, written consent to the informal resolution process.

Moody Early Childhood Center cannot offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

34 C.F.R. 106.45(b)(9).

ix. Recordkeeping

Moody Early Childhood Center must maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to Moody Early Childhood Center's education program or activity;

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2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and
4. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. Moody Early Childhood Center must make these training materials publicly available on its website or, if Moody Early Childhood Center does not maintain a website, Moody Early Childhood Center must make these materials available upon request for inspection by members of the public.

For each response required under “Response by Title IX Coordinator,” Sec. 3(g) above, Moody Early Childhood Center must create and maintain for a period of seven years records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, Moody Early Childhood Center must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to Moody Early Childhood Center’s education program or activity.

If Moody Early Childhood Center does not provide a complainant with supportive measures, Moody Early Childhood Center must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit Moody Early Childhood Center in the future from providing additional explanations or detailing additional measures taken.

34 C.F.R. 106.45(b)(10).

i) Retaliation Prohibited

Neither Moody Early Childhood Center nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX.

Intimidation, threats, coercion, or discrimination, including charges against an individual for Code of Conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

Complaints alleging retaliation may be filed according to the “Process for Formal Title IX Complaint,” Sec. 3(h) above.

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The exercise of rights protected under the First Amendment does not constitute retaliation prohibited by Title IX.

Charging an individual with a Code of Conduct violation for making a materially false statement in bad faith in the course of a Title IX formal complaint proceeding does not constitute retaliation prohibited by Title IX provided, however, that a determination regarding responsibility alone is not sufficient to conclude that any party made a materially false statement in bad faith.

34 C.F.R. 106.71(a)-(b).

j) Confidentiality

Moody Early Childhood Center must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (“FERPA”) statute, 20 U.S.C. 1232g, or FERPA regulations, 34 C.F.R. part 99, or as required by law, or to carry out the purposes of the Title IX regulations at 34 C.F.R. part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. *34 C.F.R. 106.71(a).*

k) Relationship to General Non-Discrimination Policy

The formal complaint investigation and resolution process outlined above in Sec. 3(h) applies only to formal complaints alleging sexual harassment under Title IX, but not to complaints alleging sex discrimination that do not constitute sexual harassment. Complaints of sex discrimination that do not constitute sexual harassment may be filed with the Title IX Coordinator and will be handled under Moody Early Childhood Center’s general process for receiving reports of suspected discrimination and harassment, as outlined in Section 2 above.

SEC. 4. DISTRIBUTION OF POLICY

The Superintendent or designee shall ensure that this policy and accompanying procedures are made available to all employees through the Moody Early Childhood Center Employee Handbook.

SEC. 5. LIABILITY FOR HARASSMENT

Moody Early Childhood Center accepts no liability for harassment of any student or employee by another employee. Any Moody Early Childhood Center employee who is found to have engaged in prohibited conduct is subject to disciplinary action, up to and including termination.

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Moody Early Childhood Center does not consider conduct in violation of this policy to be within the course and scope of employment or the direct consequences of the discharge of one's duties. Accordingly, to the extent permitted by law, Moody Early Childhood Center reserves the right not to provide a defense or pay damages assessed against employees for conduct in violation of this policy.

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**POLICY GROUP 4 – PERSONNEL
WHISTLEBLOWER PROTECTIONS**

PG-4.3

SEC. 1. DEFINITIONS

“Employee” means an employee or appointed officer who is paid to perform services for Moody Early Childhood Center. This definition does not include independent contractors.

“Law” means a state or federal statute, an ordinance of a local governmental entity, or a rule adopted under a statute or ordinance.

“Personnel action” means an action that affects an employee’s compensation, promotion, demotion, transfer, work assignment, or performance evaluation.

A “good faith” belief that a violation of law occurred means that:

1. An employee believed the conduct reported was a violation of law; and
2. The employee’s belief was reasonable in light of the employee’s experience and training.

A “good faith” belief that a law enforcement authority is an appropriate one means:

1. The employee believed the governmental entity was authorized to
 - a. Regulate under or enforce the law alleged to be violated in the report; or
 - b. Investigate or prosecute a violation of criminal law; and
2. The employee’s belief was reasonable in light of the employee’s experience and training.

SEC. 2. WHISTLEBLOWER COMPLAINTS

An employee who alleges a violation of whistleblower protection may take legal action against Moody Early Childhood Center as described in Chapter 554 of the Texas Government Code. Before taking such action, an employee must initiate a grievance under PG-4.24 (Employee Complaints and Grievances - General).

The employee must invoke the grievance process under PG- 4.24 no later than the 90th day after the date on which the alleged suspension, termination, or other adverse employment action occurred or was discovered by the employee through reasonable diligence. Moody Early Childhood Center may shorten the timelines outlined in PG-4.24 (Employee Complaints and Grievances - General) in order to allow the Board to make a final decision concerning the grievance within 60 days of initiation of the grievance.

If the Board does not render a final decision before the 61st day after grievance procedures are initiated, the employee may elect to:

1. Exhaust the grievance process under PG-4.24 (Employee Complaints and Grievances - General), in which case the employee must file legal action not later than the 30th day

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- after the date those procedures are exhausted to obtain relief under Chapter 554 of the Texas Government Code; or
2. Terminate the grievance process under PG-4.24 (Employee Complaints and Grievances - General) and file legal action within the timelines set by sections 554.005 and 554.006 of the Texas Government Code.

Gov't Code 554.005, .006.

SEC. 3. WHISTLEBLOWER PROTECTIONS

Neither the Board nor its agents shall suspend or terminate the employment of, or take other adverse personnel action against, an employee who in good faith reports a violation of law by Moody Early Childhood Center or another Moody Early Childhood Center employee to an appropriate law enforcement authority. *Gov't Code 554.002.*

SEC. 4. NOTICE OF RIGHTS

Moody Early Childhood Center shall inform employees of their rights regarding whistleblower protection by posting a sign in a prominent location in the workplace. *Gov't Code 554.009.*

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SEC. 1. PERSONNEL DUTIES

The Superintendent or designee shall define the qualifications, duties, and responsibilities of all positions and shall ensure that job descriptions are current and accessible to employees and supervisors.

SEC. 2. POSTING VACANCIES

The Superintendent or designee shall establish guidelines for advertising employment opportunities and posting notices of vacancies, which shall advance the commitment of Moody Early Childhood Center to equal opportunity employment and to recruit well-qualified candidates. Current Moody Early Childhood Center employees may apply for any vacancy for which they qualify.

SEC. 3. APPLICATIONS

All applicants shall complete the application form supplied by Moody Early Childhood Center. Information on applications shall be confirmed before hiring or as soon as possible thereafter.

SEC. 4. NEW HIRES

a) I-9 Forms

The Superintendent or designee shall ensure that an employee properly completes Section 1 (“Employee Information and Verification”) on Form I-9 at the time of hire.

Moody Early Childhood Center must verify employment eligibility, pursuant to the Immigration Reform and Control Act, and complete Form I-9 by the following dates:

1. Within three business days of hiring. If Moody Early Childhood Center hires an individual for employment for a duration of less than three business days, the Superintendent or designee must verify employment at the time of hire.

Moody Early Childhood Center shall not be deemed to have hired an individual if the individual is continuing in his or her employment and has a reasonable expectation of employment at all times.

When Moody Early Childhood Center rehires an individual, the Superintendent or designee may, in lieu of completing a new I-9, inspect a previously completed I-9 executed within three years of the date of rehire, to determine whether the individual is still eligible to work.

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2. For an individual whose employment authorization expires, not later than the date of expiration.

8 C.F.R. 274a.2(b)(1)(ii), (iii), (vii), (viii).

b) New Hire Reporting

Moody Early Childhood Center shall furnish to the Directory of New Hires (Texas Attorney General's Office) a report that contains the name, address, and social security number of each newly hired employee. The report shall also contain Moody Early Childhood Center's name, address, and employer identification number.

Moody Early Childhood Center may also provide, at its option, the employee's date of hire, date of birth, expected salary or wages, and Moody Early Childhood Center's payroll address for mailing of notice to withhold child support.

Moody Early Childhood Center shall report new hire information on a Form W-4 or an equivalent form, by first class mail, telephonically, electronically, or by magnetic media, as determined by Moody Early Childhood Center and in a format acceptable to the attorney general.

c) Deadline

New hire reports are due:

1. Not later than 20 calendar days after the date Moody Early Childhood Center hires the employee; or
2. In the case of Moody Early Childhood Center transmitting reports magnetically or electronically, by two monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart.

New hire reports shall be considered timely if postmarked by the due date or, if filed electronically, upon receipt by the agency.

42 U.S.C. 653a(b), (c); Family Code 234.101–.105; 1 TAC 55, Subch. I.

SEC. 5. EXIT INTERVIEWS AND EXIT REPORTS

An exit interview shall be conducted, if possible, and an exit report shall be prepared for every employee who leaves employment with Moody Early Childhood Center.

SEC. 6. SOCIAL SECURITY NUMBERS

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It shall be unlawful for Moody Early Childhood Center to deny to any individual any right, benefit, or privilege provided by law because of the individual's refusal to disclose his or her social security number.

a) *Exceptions*

The above provision does not apply to:

1. Any disclosure that is required by federal statute. The United States Internal Revenue Code provides that the social security number issued to an individual for purposes of federal income tax laws shall be used as the identifying number for taxpayers;
2. Any disclosure to Moody Early Childhood Center maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted before such date to verify the identity of an individual; or
3. Any use for the purposes of establishing the identity of individuals affected by any tax, general public assistance, driver's license, or motor vehicle registration law within Moody Early Childhood Center's jurisdiction.

b) *Statement of Uses*

Upon disclosing an employee's social security number, Moody Early Childhood Center shall inform that employee whether the disclosure is mandatory or voluntary, by what statutory authority such number is solicited, and what uses will be made of it.

Privacy Act of 1974, Pub. L. No. 93-579, Sec. 7, 88 Stat. 1896, 1897 (1974).

SEC. 7. EMPLOYMENT ASSISTANCE PROHIBITED

Upon receipt of Title I funds, the Superintendent shall adopt regulations that prohibit any individual who is a Moody Early Childhood Center employee, contractor, or agent from assisting a Moody Early Childhood Center employee in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or Moody Early Childhood Center knows, or has probable cause to believe, that such school employee engaged in sexual misconduct regarding a minor or student in violation of the law.

This requirement shall not apply if the information giving rise to probable cause has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct; and has been properly reported to any other authorities as required by federal, state, or local law, including Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and the implementing regulations under Part 106 of Title 34, Code of Federal Regulations, or any succeeding regulations; and:

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1. The matter has been officially closed or the prosecutor or police with jurisdiction over the alleged misconduct has investigated the allegations and notified Moody Early Childhood Center officials that there is insufficient information to establish probable cause that the school employee engaged in sexual misconduct regarding a minor or student in violation of the law;
2. The school employee has been charged with and acquitted or otherwise exonerated of the alleged misconduct; or
3. The case or investigation remains open and there have been no charges filed against, or indictment of, the school employee within four years of the date on which the information was reported to a law enforcement agency.

20 U.S.C 7926.

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**POLICY GROUP 4 – PERSONNEL
PRE-EMPLOYMENT CREDENTIALS AND
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PG-4.9

SEC. 1. MINIMUM QUALIFICATIONS FOR PRINCIPALS AND TEACHERS

A person employed by Moody Early Childhood Center as a Principal or teacher must hold at least a baccalaureate degree. *Education Code 12.129.*

SEC. 2. PRE-EMPLOYMENT AFFIDAVIT

An applicant for employment as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, school counselor, audiologist, occupational therapist, physical therapist, physician, nurse, school psychologist, associate school psychologist, licensed professional counselor, marriage and family therapist, social worker, or speech language pathologist must submit, using a form adopted by the Texas Education Agency, a pre-employment affidavit disclosing whether the applicant has ever been charged with, adjudicated for, or convicted of having an inappropriate relationship with a minor.

An applicant who answers affirmatively concerning an inappropriate relationship with a minor must disclose in the affidavit all relevant facts pertaining to the charge, adjudication, or conviction, including whether the charge was determined to be true or false.

An applicant is not precluded from being employed based on a disclosed charge if Moody Early Childhood Center determines based on the information disclosed in the affidavit that the charge was false.

A determination that an employee failed to disclose information required to be disclosed by an applicant is grounds for termination of employment.

Education Code 21.009.

SEC. 3. TEA REGISTRY OF PERSONS NOT ELIGIBLE FOR EMPLOYMENT IN PUBLIC SCHOOLS

Moody Early Childhood Center shall discharge or refuse to hire any person listed on the registry of persons who are not eligible to be employed by a school district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement, as such registry is maintained and published by the Texas Education Agency. *Education Code § 22.092(b).*

SEC. 4. NOTICE TO PARENTS – QUALIFICATIONS

The Superintendent or designee shall provide to the parent or guardian of each student enrolled in Moody Early Childhood Center written notice of the qualifications of each teacher employed by Moody Early Childhood Center. *Education Code 12.129.*

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Parents may also request, and Moody Early Childhood Center will provide in a timely manner, information regarding the professional qualifications of their student’s classroom teachers. Information provided in response to a parent request will include, at a minimum:

1. Whether a child’s teacher(s) have met state qualification and licensing criteria for their grade levels and subject areas;
2. Whether a child’s teacher(s) are serving under emergency or other provisional status through which state qualification or licensing criteria have been waived;
3. Whether the teacher(s) are teaching in the field of discipline of the certification of the teacher; and
4. Whether a child receives services from paraprofessionals and, if so, their qualifications.

SEC. 5. ACCESS TO EMPLOYEE RECORDS

Custodians of personnel records shall adhere to the requirements of the Texas Public Information Act (“TPIA”).

Information in a personnel file is excepted from the requirements of the TPIA if the disclosure would constitute a clearly unwarranted invasion of personal privacy.

A Moody Early Childhood Center employee shall choose whether to allow public access to information in Moody Early Childhood Center’s custody that relates to the employee’s home address, home telephone number, emergency contact information, Social Security number, or that reveals whether the person has family members. *Gov’t Code 552.024, 552.102(a)*. The Superintendent shall develop procedures for employees to opt-out of having the above information released.

All information in the personnel file of a Moody Early Childhood Center employee shall be made available to that employee or the employee’s designated representative as public information is made available under the TPIA. An employee or an employee’s authorized representative has a special right of access, beyond the right of the general public, to information held by Moody Early Childhood Center that relates to the employee and that is protected from public disclosure by laws intended to protect the accessing employee’s privacy interests. Moody Early Childhood Center may assert as grounds for denial of access other provisions of the TPIA or other laws that are not intended to protect the accessing employee’s privacy interests.

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**POLICY GROUP 4 – PERSONNEL
CRIMINAL HISTORY AND CREDIT REPORTS**

PG-4.6

SEC. 1. DEFINITIONS

“Criminal history clearinghouse” (“Clearinghouse”) means the electronic clearinghouse and subscription service established by the Department of Public Safety (“DPS”) to provide criminal history record information to persons entitled to receive that information and to provide updates to such information. A person who is the subject of the criminal history record information requested must consent to the release of the information. *Gov’t Code 411.0845(a), (h)*.

“Criminal history record information” (the “CHRI”) means information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions. The term does not include:

- (A) Identification information, including fingerprint records, to the extent that the identification information does not indicate involvement of the person in the criminal justice system; or
- (B) Driving record information maintained by the department under Subchapter C, Chapter 521, Transportation Code.

Gov’t Code 411.082(2).

“National criminal history record information” (“NCHRI”) means criminal history record information obtained from DPS under Government Code Chapter 411, Subchapter F, and the Federal Bureau of Investigation (the “FBI”) under Government Code 411.087. *Education Code 22.081(2)*.

SEC. 2. CERTIFIED PERSONS

The State Board for Educator Certification (the “SBEC”) shall review the NCHRI of a person who has not previously submitted fingerprints to the department or been subject to a national criminal history record information review who is an applicant for or holder of a certificate and who is employed by or is an applicant for employment by Moody Early Childhood Center. *Education Code 22.0831(b), (c)*.

SEC. 3. NONCERTIFIED EMPLOYEES

This section applies to a person who is not an applicant for or holder of a certificate from the SBEC and who, on or after January 1, 2008, is offered employment by:

1. Moody Early Childhood Center; or
2. A shared services arrangement, if the employee’s or applicant’s duties are or will be performed on school property or at another location where students are regularly present.

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For noncertified employees of Moody Early Childhood Center or a shared services arrangement hired before January 1, 2008, see Section 7 (All Other Employees) below.

a) Information to DPS and the Texas Education Agency (the “TEA”)

Before or immediately after employing or securing the services of a person subject to this section, Moody Early Childhood Center shall send or ensure that the person sends to the DPS information that the DPS requires for obtaining NCHRI, which may include fingerprints and photographs.

Moody Early Childhood Center shall provide the TEA with the name of a person to whom this section applies. The TEA shall examine the CHRI of the person and notify Moody Early Childhood Center if the person may not be hired or must be discharged under Education Code 22.085.

b) Employment Pending Review

After the required information is submitted, the person may begin employment, but that employment is conditional upon the review and acceptability of that person’s CHRI by Moody Early Childhood Center and by the TEA. If Moody Early Childhood Center or the TEA makes a determination that the employee or applicant is ineligible for employment, the employee must be terminated.

c) Criminal History

Moody Early Childhood Center shall obtain all CHRI that relates to a person subject to this section through the Clearinghouse and shall subscribe to the CHRI of that person. Moody Early Childhood Center may require the person to pay any fees related to obtaining the CHRI.

Education Code 22.0833; 19 TAC 153.1109(d).

SEC. 4. SUBSTITUTE TEACHERS

This section applies to a person who is a substitute teacher for Moody Early Childhood Center or a shared services arrangement. For purposes of this policy, a “substitute teacher” is a teacher who is on call or on a list of approved substitutes to replace a regular teacher and has no regular or guaranteed hours. A substitute teacher may be certified or noncertified.

a) Information to DPS and TEA

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Moody Early Childhood Center shall send or ensure that a person to whom this section applies sends to the DPS information required for obtaining NCHRI, which may include fingerprints and photographs.

Moody Early Childhood Center shall provide the TEA with the name of a person to whom this section applies. The TEA shall examine the CHRI and certification records of the person and notify Moody Early Childhood Center if the person:

1. May not be hired or must be discharged as provided by Education Code 22.085; or
2. May not be employed as a substitute teacher because the person's educator certification has been revoked or is suspended.

b) Employment Pending Review

After the required information is submitted, the person may begin employment, but that employment is conditional upon the review of that person's CHRI by Moody Early Childhood Center and by the TEA. If Moody Early Childhood Center or the TEA makes a determination that the employee or applicant is ineligible for employment, the employee must be terminated.

c) Criminal History

Moody Early Childhood Center shall obtain all CHRI that relates to a person to whom this section applies through the Clearinghouse. Moody Early Childhood Center may require the person to pay any fees related to obtaining the CHRI.

Education Code 22.0836; 19 TAC 153.1101(5), 153.1111(d).

SEC. 5. STUDENT TEACHERS AND VOLUNTEERS

This section applies to:

1. A person participating in an internship consisting of student teaching to receive a teaching certificate; and
2. A volunteer or person who has indicated, in writing, an intention to serve as a volunteer with Moody Early Childhood Center.

a) Criminal History

A person may not perform any student teaching or volunteer duties until:

1. The student teacher or volunteer has provided to Moody Early Childhood Center a driver's license or another form of identification containing the person's photograph issued by an entity of the United States government; and

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2. Moody Early Childhood Center has obtained from the DPS all CHRI that relates to the student teacher or volunteer. Moody Early Childhood Center may also obtain CHRI relating to a student teacher or volunteer from any other law enforcement agency, criminal justice agency, or private consumer reporting agency.

Moody Early Childhood Center may require a student teacher or volunteer to pay any costs related to obtaining the CHRI.

b) Exception

The criminal history requirements above do not apply to a person who volunteers or is applying to volunteer with Moody Early Childhood Center if the person:

1. Is the parent, guardian, or grandparent of a child who is enrolled in Moody Early Childhood Center;
2. Will be accompanied by a Moody Early Childhood Center employee while on a Moody Early Childhood Center campus; or
3. Is volunteering for a single event on Moody Early Childhood Center campus.

Education Code 22.0835.

SEC. 6. COORDINATION OF EFFORTS

Moody Early Childhood Center may coordinate with the TEA, the SBEC, and a shared services arrangement as necessary to ensure that criminal history reviews are not unnecessarily duplicated. *Education Code 22.0833(h).*

SEC. 7. ALL OTHER EMPLOYEES

Moody Early Childhood Center shall obtain CHRI that relates to a person who is not subject to a NCHRI review and who is an employee of:

1. Moody Early Childhood Center; or
2. A shared services arrangement, if the employee's duties are performed on school property or at another location where students are regularly present.

Moody Early Childhood Center may obtain the CHRI from:

1. The DPS;
2. A law enforcement or criminal justice agency; or
3. A private consumer reporting agency.

Education Code 22.083(a), (a-1), (c); Gov't Code 411.097.

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SEC. 8. CONFIDENTIALITY OF CRIMINAL HISTORY RECORDS

CHRI that Moody Early Childhood Center obtains from the DPS, including any identification information that could reveal the identity of a person about whom the CHRI is requested and information that directly or indirectly indicates or implies involvement of a person in the criminal justice system:

1. Is for the exclusive use of Moody Early Childhood Center; and
2. May be disclosed or used by Moody Early Childhood Center only if, and only to the extent, disclosure is authorized or directed by a statute, rule, or order of a court of competent jurisdiction.

For purposes of these confidentiality provisions, “criminal history record” information does not refer to any specific document provided by the DPS, but to the information contained, wholly or partly, in a document’s original form or any subsequent form or use.

Moody Early Childhood Center or an individual may not confirm the existence or non-existence of CHRI to any person who is not eligible to receive the information. *Gov’t Code 411.084.*

CHRI obtained by Moody Early Childhood Center, in the original form or any subsequent form, may not be released to any person except the individual who is the subject of the information, the TEA, the SBEC, or by court order. The CHRI is not subject to disclosure under Government Code Chapter 552 (Public Information Act).

A Moody Early Childhood Center employee may request from the Human Resources Department a copy of any CHRI related to that employee that Moody Early Childhood Center has obtained from the DPS. Moody Early Childhood Center may charge a fee to provide the information, not to exceed the actual cost of copying the CHRI. *Gov’t Code 411.097(d), (f).*

Moody Early Childhood Center generally will not print out CHRI, unless necessary for conducting a review of records or if seeking legal advice concerning eligibility for employment following receipt of a CHRI report.

Any Moody Early Childhood Center employee who violates confidentiality protocols concerning access to, review of, or confidentiality of CHRI is subject to discipline, up to and including termination.

a) Destroying CHRI

Moody Early Childhood Center shall destroy CHRI obtained from the DPS on the earlier of:

1. The date the information is used for the authorized purpose; or

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2. The first anniversary of the date the information was originally obtained.

Gov't Code 411.097(d)(3).

This process also applies if it is necessary to print out CHRI.

SEC. 9. CONFIDENTIALITY OF CHRI INFORMATION

Moody Early Childhood Center may not release information collected about a person in order to obtain CHRI, including the person's name, address, phone number, social security number, driver's license number, other identification number, and fingerprint records, except:

1. To comply with Government Code Chapter 22, Subchapter C (criminal records);
2. By court order; or
3. With the consent of the person who is the subject of the information.

In addition, the information is not subject to disclosure under Government Code Chapter 522 (Public Information Act). Moody Early Childhood Center shall destroy the information not later than the first anniversary of the date the information is received. *Education Code 22.08391.*

SEC. 10. SBEC NOTIFICATION

The Superintendent or designee shall promptly notify the SBEC in writing by filing a report with the TEA staff within seven calendar days of the date the Superintendent obtains or has knowledge of information indicating that an applicant for or holder of a certificate issued by the SBEC has a reported criminal history and Moody Early Childhood Center obtained information about the educator's criminal record by a means other than by the DPS.

"Reported criminal history" means information concerning any formal criminal justice system charges and dispositions. The term includes arrests, detentions, indictments, criminal information, convictions, deferred adjudications, and probations in any state or federal jurisdiction. *Education Code 22.087; 19 TAC 249.14(d), .3(43).*

SEC. 11. DISCHARGE OF CONVICTED EMPLOYEES

a) *Discharge Under Education Code 22.085*

In accordance with Education Code 22.085, Moody Early Childhood Center shall discharge or refuse to hire an employee or applicant for employment if Moody Early Childhood Center obtains information through a CHRI review that the employee or applicant has been:

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1. Convicted of or placed on deferred adjudication community supervision for an offense for which a defendant is required to register as a sex offender under Code of Criminal Procedure Chapter 62; or
2. Convicted of:
 - a. A felony offense under Title 5, Penal Code, if the victim of the offense was under 18 years of age at the time the offense was committed; or
 - b. An offense under the laws of another state or federal law that is equivalent to an offense under item 1 or item 2(a).

However, Moody Early Childhood Center is not required to discharge or refuse to hire an employee or applicant if the person committed an offense under Title 5 Penal Code and:

1. The date of the offense is more than 30 years before:
 - a. June 15, 2007 in the case of a person employed by Moody Early Childhood Center as of that date; or
 - b. The date the person's employment will begin, in the case of a person applying for employment with Moody Early Childhood Center after June 15, 2007; and
2. The employee or applicant for employment satisfied all terms of the court order entered on conviction.

b) Discharge Under Education Code 12.120 and 19 TAC 100.151

Additionally, in accordance with Education Code 12.120 and 19 TAC 100.1151, an individual may not be employed by Moody Early Childhood Center if he or she:

1. Has been convicted of any felony or a misdemeanor involving moral turpitude;
2. Has been convicted of any offense listed in Education Code section 37.007(a); or
3. Has been convicted of an offense listed in the Code of Criminal Procedure section 62.001(5).

c) Exception

Notwithstanding the foregoing, a person may be employed in any position by Moody Early Childhood Center if a school district could employ the person in that position and the TEA approves of the employment pursuant to Education Code section 12.1059. *Education Code 12.120; 19 TAC 100.1151(b).*

d) Certification to TEA

Each school year, the Superintendent or designee shall certify to the Commissioner of Education that Moody Early Childhood Center has complied with the above provisions.

e) Optional Termination

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Moody Early Childhood Center may discharge an employee if it obtains information of the employee's conviction of a felony or misdemeanor involving moral turpitude that the employee did not disclose to the SBEC or Moody Early Childhood Center.

SEC. 12. NOTIFICATION OF ARRESTS, INDICTMENTS, CONVICTIONS, AND OTHER ADJUDICATIONS

A Moody Early Childhood Center employee shall notify his or her Principal or immediate supervisor within three calendar days of any arrest, indictment, conviction, guilty or no contest plea, or other adjudication of the employee for any felony offense or misdemeanor offense involving moral turpitude and/or:

1. Crimes involving Moody Early Childhood Center property or funds;
2. Crimes involving attempt by fraudulent or unauthorized means to obtain or alter any certificate or permit that would entitle any person to hold or obtain a position as an educator;
3. Crimes that occur wholly or in part on Moody Early Childhood Center property or at a school-sponsored or school-related activity; or
4. Crimes involving moral turpitude, which include:
 - a. Dishonesty, fraud, deceit, theft, misrepresentation;
 - b. Deliberate violence;
 - c. Base, vile or depraved acts that are intended to arouse or gratify the sexual desire of the actor;
 - d. Acts constituting public intoxication, operating a motor vehicle while under the influence of alcohol, or disorderly conduct; or
 - e. Acts constituting abuse under the Texas Family Code.

SEC. 13. DISCRIMINATION BASED ON CRIMINAL HISTORY

Except as required by state or federal law, Moody Early Childhood Center does not prohibit employment or refuse to consider an application for employment solely on the grounds that an applicant/employee has a prior criminal record. Moody Early Childhood Center does not prohibit employment or refuse to consider an application for employment based solely on the grounds that the applicant/employee has been arrested. It is the policy of Moody Early Childhood Center, prior to any exclusion of an applicant for employment or continued employment of an employee that has a criminal record, to conduct an individualized assessment of the criminal conduct at issue. In conducting such an assessment, Moody Early Childhood Center shall carefully consider the following in order to determine that any exclusion based on criminal conduct is job related to the position in question and consistent with the business necessity of Moody Early Childhood Center:

- The nature and gravity of the offense or offenses;
- The time that has passed since the conviction and/or completion of the sentence;

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- The nature of the job held or sought.

Moody Early Childhood Center shall consider the additional information provided by the applicant/employee that demonstrates that the criminal conduct is not job related and is consistent with business necessity of Moody Early Childhood Center prior to making any final determination. Such additional information may include:

- The facts or circumstances surrounding the offense or conduct;
- The number of offenses for which the individual was convicted;
- Age at the time of conviction, or release from prison;
- Evidence that the individual performed the same type of work, post-conviction, with the same or a different employer, with no known incidents of criminal conduct;
- The length and consistency of employment history before and after the offense;
- Rehabilitation efforts, e.g., education/training;
- Employment or character references regarding fitness for the particular position;
- Whether the individual is bonded under a federal, state or local bonding program.

SEC. 14. CONSUMER CREDIT REPORTS

a) Definitions

“Adverse action” includes a denial of employment or any other decision for employment purposes that adversely affects any current or prospective employee.

“Consumer report” includes any information from a consumer reporting agency that is used or expected to be used as a factor in establishing the person’s eligibility for employment.

“Consumer reporting agency” is an agency that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly assembles or evaluates consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

“Employment purposes” when used in connection with a consumer report means a report used for the purpose of evaluating a person for employment, promotion, reassignment, or retention as an employee.

15 U.S.C. 1681a.

b) Obtaining Consumer Credit Reports

Moody Early Childhood Center may not procure a consumer report for employment purposes unless:

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1. Moody Early Childhood Center has provided the applicant or employee a written disclosure that a consumer report may be obtained for employment purposes; and
2. The applicant or employee has authorized in writing the procurement of the consumer report.

c) Adverse Action

Before taking any adverse action based on the consumer report, Moody Early Childhood Center shall provide the applicant or employee a copy of the consumer report and a written description of the person's rights under the Fair Credit Reporting Act, as prescribed by the Federal Trade Commission.

15 U.S.C. 1681b(b)(2).

d) Discrepancies in Address

The Superintendent or designee shall develop and implement reasonable policies and procedures designed to enable Moody Early Childhood Center, when it receives a notice of address discrepancy, to form a reasonable belief that a consumer report relates to the consumer about whom it has requested the report. The Superintendent or designee shall also develop and implement reasonable policies and procedures for furnishing an address for the consumer, which Moody Early Childhood Center has reasonably confirmed is accurate, to the consumer reporting agency. *16 CFR 641.1.*

e) Disposing of Consumer Credit Report Records

Moody Early Childhood Center must properly dispose of a consumer report by taking reasonable measures to protect against unauthorized access to or use of the information. "Dispose" includes discarding or abandoning the consumer report, or selling, donating, or transferring any medium, including computer equipment, upon which the consumer report is stored.

Examples of reasonable measures include:

1. Burning, pulverizing, or shredding papers containing a consumer report so the information cannot practicably be read or reconstructed;
2. Destroying or erasing electronic media containing a consumer report so that the information cannot practicably be read or reconstructed; or
3. After due diligence, entering into and monitoring compliance with a contract with another party engaged in the business of record destruction to dispose of the consumer report.

16 CFR 682.3.

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Moody Early Childhood Center shall strive to protect the privacy of employees' medical information to the greatest extent possible.

SEC. 1. “MEDICAL INFORMATION” DEFINED

“Medical information” is any information, data, or documentation relating to an employee's mental or physical condition. The term includes, but is not limited to:

1. Oral, written, or digital information concerning an employee's mental or physical condition;
2. Medical records;
3. Dental records;
4. Disability records;
5. Workers' compensation records;
6. Medical leave records;
7. Genetic information;
8. Health insurance information; and/or
9. Information concerning visits or payments to any health care professional, hospital, emergency room, or other type of short- or long-term health care facility.

SEC. 2. CONFIDENTIALITY OF RECORDS

Any medical information concerning employees will be maintained in separate, confidential medical files apart from regular personnel records. Only employees authorized by the Superintendent may access such files.

Employees are hereby notified that medical information concerning employees is absolutely confidential under state and federal laws and may not be discussed at any time with any person under any circumstances, unless:

1. An employee needs to do so in order to carry out his or her job duties, or
2. The person discussing the information is talking or otherwise communicating with the subject of the information at that person's invitation.

If an employee is concerned about a possible medical condition on the part of another employee, the employee must not discuss such concern with anyone other than his or her Principal or immediate supervisor.

SEC. 3. POLICY VIOLATIONS

Any employee who is found to have discussed medical information concerning another employee with anyone else in violation of this policy, or who is found to have released such information without authorization, will be subject to severe disciplinary action, up to and

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possibly including immediate termination from employment. Such an employee may also be subject to both civil and criminal action in a court of law under state and federal law.

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SEC. 1. OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION COMPLIANCE

The Superintendent shall ensure that Moody Early Childhood Center complies with all applicable requirements of the Occupational Safety and Health Administration (the “OSHA”) in order to reduce dangers to health and safety by creating and maintaining improved working conditions free from recognized hazards that may cause serious physical injury.

Accordingly, Moody Early Childhood Center shall:

1. Maintain a log of all occupational injuries and illnesses and report such occurrences as required by the OSHA;
2. Post notice of employee protections under the OSHA in the workplace;
3. Post citations issued by the OSHA, if any, at or near the place of the alleged violation and correct workplace hazards in the time allowed; and
4. Furnish all employees a place of employment free from recognized hazards.

a) Reporting Employee Injuries

Any employee suffering an injury or illness that is work-related – no matter how minor – is responsible for immediately reporting that illness or injury to his or her supervisor. Supervisors must report the injury or illness to the appropriate agency.

Once an injury or illness has been reported, an injury report must be completed within 48 hours.

b) Reporting Serious Injuries

Within eight hours after the death of any employee from a work-related incident or the in-patient hospitalization of three or more employees as a result of a work-related accident, Moody Early Childhood Center will orally report the fatality/multiple hospitalization by telephone or in person to the Area Office of the OSHA that is nearest to the site of the incident.

Moody Early Childhood Center will utilize the required OSHA forms to document and log each recordable injury or illness. This information will be kept current, maintained accurately, and retained for a period of five years.

c) Personal Protective Equipment

Each campus shall provide personal protective equipment for all employees so they are able to work safely with chemicals.

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d) Safety Training

The Superintendent or designee shall provide training to employees on hazards and related matters as required by the OSHA.

SEC. 2. GENERAL SAFETY

All employees are expected to work in a safe and prudent manner abiding by all safety related policies and procedures

Lighted candles or open flames are not permitted for any purpose in Moody Early Childhood Center facilities, except when related to an approved lesson plan. Pyrotechnics in Moody Early Childhood Center buildings or on school grounds is strictly prohibited.

SEC. 3. ASBESTOS MANAGEMENT PLAN

Moody Early Childhood Center shall utilize the services of an accredited management planner to develop an asbestos management plan for each campus. A copy of the management plan shall be kept in the Central Office and be made available for inspection during normal business hours.

SEC. 4. PEST CONTROL TREATMENT

Employees are prohibited from applying any pesticide or herbicide without appropriate training and prior approval of the integrated pest management (IPM) coordinator. Any application of pesticide or herbicide must be done in a manner prescribed by law and Moody Early Childhood Center's integrated pest management program.

Notices of planned pest control treatment will be posted in Moody Early Childhood Center facilities 48 hours before the treatment begins. Individual employees may request in writing to be notified of pesticide applications. An employee who requests individualized notice will be notified by telephone, written or electric means.

Employees should immediately report any evidence of pest activity to Moody Early Childhood Center administrators or the Maintenance Department.

SEC. 5. CLEAN AIR ACT

In compliance with the Clean Air Act, Moody Early Childhood Center shall use only licensed technicians to service and replace air conditioning and refrigeration equipment.

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SEC. 6. HAZARD COMMUNICATION ACT

To the extent that the requirements of the OSHA do not apply to Moody Early Childhood Center, Moody Early Childhood Center shall comply with the Texas Hazard Communication Act, Health and Safety Code Chapter 502.

Moody Early Childhood Center is concerned about the safety of all employees. The Superintendent or designee shall adopt procedures and perform the following duties in compliance with the Texas Hazard Communication Act:

1. Post and maintain the notice promulgated by the Texas Department of State Health Services (the “TDSHS”) in the workplace.
2. Provide an education and training program for employees using or handling hazardous chemicals under normal operating conditions or foreseeable emergencies.
3. Maintain the written hazard communication program and a record of each training session to employees, including the date, a roster of the employees who attend, the subjects covered in the training session, and the names of the instructors. Records will be maintained for at least five years.
4. Compile and maintain a workplace chemical list that includes required information for each hazardous chemical normally present in the workplace or temporary workplace in excess of 55 gallons or 500 pounds, or as determined by the TDSHS for certain highly toxic or dangerous hazardous chemicals. The list will be readily available to employees and their representatives.
5. Update the list as necessary, but at least by December 31 each year, and maintain the list as required by law. Each workplace chemical list shall be dated and signed by the person responsible for compiling the information.
6. As required by law, label new or existing stocks of hazardous chemicals with the identity of the chemical and appropriate hazard warnings, if such stocks are not already appropriately labeled.
7. Maintain a legible copy of the most current manufacturer’s material safety data sheets (“MSDS”) for each hazardous chemical; request such sheets from the manufacturer if not already provided or otherwise obtain a current MSDS; make such sheets readily available to employees or their representatives on request.
8. Provide employees with appropriate personal protective equipment.

SEC. 7. PEST CONTROL TREATMENT NOTICE

The Superintendent or designee shall notify employees of any planned pest control treatment by both of the following methods:

1. Posting the sign provided by the certified applicator or technician in an area of common access the employees are likely to check on a regular basis at least 48 hours before each planned treatment.

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2. Providing the official Structural Pest Control Service Consumer Information Sheet to any individual working in the building, on request.

SEC. 8. BLOODBORNE PATHOGEN CONTROL

The Superintendent or designee shall establish a written Exposure Control Plan designed to eliminate or minimize exposure to blood or other potentially infectious materials, as defined by 29 C.F.R. 1910.1030.

The Exposure Control Plan shall contain at least the following elements:

1. An exposure determination containing:
 - a. A list of all job classifications in which all employees in those job classifications have occupational exposure;
 - b. A list of job classifications in which some employees have occupational exposure; and
 - c. A list of all tasks and procedures or groups of closely related task and procedures in which occupational exposure occurs and that are performed by employees in job classifications in which some employees have occupational exposure.
2. The schedule and method of implementation for the requirements set forth in 29 C.F.R. 1910.1030 regarding methods of compliance, HIV and HBV research laboratories and production facilities, Hepatitis B vaccination and post-exposure evaluation and follow-up, communication of hazards to employees, and recordkeeping; and
3. The procedure for the evaluation of circumstances surrounding exposure incidents as required by 29 C.F.R. 1910.1030.

The Exposure Control Plan shall be made accessible to all employees. The Superintendent or designee shall review and update the Exposure Control Plan at least annually and whenever necessary to reflect new or modified tasks and procedures that affect occupational exposure and to reflect new or revised employee positions with occupational exposure.

Where there is occupational exposure, Moody Early Childhood Center shall provide, at no cost to employees, appropriate personal protective equipment. 29 C.F.R. 1910.1030.

SEC. 9. PRE-EMPLOYMENT INQUIRIES AND EMPLOYMENT ENTRANCE EXAMINATIONS

Moody Early Childhood Center shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of a disability, except as provided below. However, Moody Early Childhood Center is permitted to make pre-employment inquiries into the ability of an applicant to perform job-related functions, such as asking an applicant to describe or demonstrate how, with or

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without reasonable accommodation, the applicant will be able to perform job-related functions. *42 U.S.C. 12112(d)(2); 29 CFR 1630.14(a).*

Moody Early Childhood Center may require a medical examination (and/or inquiry) after an offer of employment has been made to a job applicant and prior to the beginning of employment duties and may condition the offer on the results of such examination (and/or inquiry), provided all entering employees in the same job category are subjected to such an examination (and/or inquiry) regardless of disability.

The results of an employment entrance medical examination shall be used only to determine the applicant's ability to perform job-related functions. *42 U.S.C. 12112(d)(3); 29 CFR 1630.14(b).*

a) Confidentiality

Information obtained regarding the medical condition or history of the applicant shall be collected and maintained on separate forms and in separate medical files and shall be treated as confidential medical records. However, supervisors and managers may be informed regarding necessary restrictions on the employee's work or duties and necessary accommodation; first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment. *29 CFR 1630.14(b)(c).*

b) Examination During Employment

Moody Early Childhood Center may require a medical examination (and/or inquiry) of an employee that is job related and consistent with business necessity and may make inquiries into the ability of an employee to perform job-related functions. The results of an employee's medical examination shall be used only to determine the employee's ability to perform job-related functions. *42 U.S.C. 12112(d)(3)–(4); 29 CFR 1630.14(c).*

SEC. 10. EXAMINATIONS DURING EMPLOYMENT

The Superintendent or designee may require an employee to undergo a medical examination if information received from the employee, the employee's supervisor, or other sources indicates the employee has a physical or mental impairment that:

1. Interferes with the employee's ability to perform essential job functions; or
2. Poses a direct threat to the health or safety of the employee or others. A communicable or other infectious disease may constitute a direct threat.

Moody Early Childhood Center may designate the physician to perform the examination. If Moody Early Childhood Center designates the physician, Moody Early Childhood Center shall pay the cost of the examination. Moody Early Childhood Center may place the employee on paid administrative leave while awaiting results of the examination and evaluating the results.

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Based on the results of the examination, the Superintendent or designee shall determine whether the employee has an impairment. If so, the Superintendent or designee shall determine whether the impairment interferes with the employee's ability to perform essential job functions or poses a direct threat. If not, the employee shall be returned to his or her job position.

If the impairment does interfere with the employee's ability to perform essential job functions or poses a direct threat, the Superintendent or designee shall determine whether the employee has a disability and, if so, whether the disability requires reasonable accommodation.

SEC. 11. OTHER REQUIREMENTS

Employees with communicable diseases shall follow recommendations of public health officials regarding contact with students and other employees. Food service workers shall comply with health requirements established by city, county, and state health authorities.

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DRUG-, ALCOHOL-, AND TOBACCO-FREE WORKPLACE

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SEC. 1. DRUG- AND ALCOHOL-FREE WORKPLACE

Moody Early Childhood Center intends to provide a safe and drug- and alcohol-free environment for employees and students. With this goal in mind, Moody Early Childhood Center expressly prohibits:

1. The use, possession, solicitation for, or sale of narcotics or other illegal drugs, alcohol, or prescription medication without a prescription on Moody Early Childhood Center property or while performing an assignment.
2. Being impaired or under the influence of legal or illegal drugs or alcohol away from Moody Early Childhood Center, if such impairment or influence adversely affects the employee's work performance, the safety of the employee or of others, or put at risk Moody Early Childhood Center's reputation.
3. Possession, use, solicitation for, or sale of legal or illegal drugs or alcohol away from Moody Early Childhood Center, if such activity or involvement adversely affects the employee's work performance, the safety of the employee or of others, or puts at risk Moody Early Childhood Center's reputation.
4. The presence of any detectable amount of prohibited substances in the employee's system while at work, while on Moody Early Childhood Center property, or while on Moody Early Childhood Center-related business. "Prohibited substances" include illegal drugs, alcohol, or prescription drugs not taken in accordance with a prescription given to the employee.

SEC. 2. DRUG AND ALCOHOL TESTING

Moody Early Childhood Center will conduct drug and/or alcohol testing under any of the following circumstances:

a) School Drivers

Employees who drive Moody Early Childhood Center-owned or leased vehicle(s) on school-related business may be subject to drug and/or alcohol testing as determined necessary by the Moody Early Childhood Center administration.

b) Random Testing

Employees may be selected at random for drug and/or alcohol testing at any interval determined by Moody Early Childhood Center.

c) For-Cause Testing

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Moody Early Childhood Center may direct an employee to submit to a drug and/or alcohol test at any time Moody Early Childhood Center believes that the employee may be under the influence of drugs or alcohol, including, but not limited to, the following circumstances:

1. Evidence of drugs or alcohol on or about the employee's person or in the employee's vicinity;
2. Unusual conduct on the employee's part that suggests impairment or influence of drugs or alcohol;
3. Negative performance patterns; or
4. Excessive and unexplained absenteeism or tardiness.

d) Post-Accident Testing

Any employee involved in an on-the-job accident or injury under circumstances that suggest possible use or influence of drugs or alcohol in the accident or injury event may be asked to submit to a drug and/or alcohol test. "Involved in an on-the-job accident or injury" means not only the one who was or could have been injured, but also any employee who potentially contributed to the accident or injury event in any way.

SEC. 3. POLICY VIOLATIONS

An employee is subject to disciplinary sanctions under this policy if:

1. The employee is tested for drugs or alcohol outside of the employment context and the results indicate a violation of this policy;
2. The employee is tested for drugs or alcohol in accordance with this policy and the results indicate a violation of this policy; and/or
3. The employee refuses to submit to testing under this policy.

Disciplinary sanctions for violations of this policy may include, but are not limited to:

1. Referral to drug and/or alcohol counseling or rehabilitation programs;
2. Referral to employee assistance programs;
3. Referral to appropriate law enforcement officials for prosecution;
4. Removal from safety-sensitive functions;
5. Employment actions, up to and including termination of employment; and/or
6. Any other form of disciplinary sanction deemed appropriate by Moody Early Childhood Center.

SEC. 4. DRUG-FREE AWARENESS PROGRAM

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The Superintendent shall establish, as needed, a drug-free awareness program complying with legal requirements. The program shall provide relevant information to employees in the following areas:

1. The dangers of drug use and abuse in the workplace.
2. Moody Early Childhood Center’s drug-free workplace policy.
3. Counseling, rehabilitation, and other assistance programs available to employees in the community, if any.
4. Consequences on employment for violating Moody Early Childhood Center’s drug use and abuse prohibitions.

The employee shall be responsible for all fees or charges related to drug/alcohol counseling or rehabilitation, if any.

SEC. 5. TOBACCO USE

Moody Early Childhood Center further intends to provide a tobacco-free environment for employees and students. Smoking (including, but not limited to cigarettes, cigars, and pipes) and the use of tobacco by employees is prohibited on all Moody Early Childhood Center-owned property, in Moody Early Childhood Center-owned vehicles, and while supervising students during school-related events.

Moody Early Childhood Center also prohibits the use of any “vapor products”—meaning electronic cigarettes (e-cigarettes) or any other device that uses a mechanical heating element, battery, or electronic circuit to deliver vapor that may include nicotine to the individual inhaling from the device; any substance used to fill or refill the device-cigarette; inhalants; electronic cigarette devices; and/or other devices or paraphernalia used with vapor products, other inhalants, or chemicals—at all times on Moody Early Childhood Center property, at any Moody Early Childhood Center event or activity (whether or not on school property), or in Moody Early Childhood Center vehicles.

An employee who violates this tobacco use policy is subject to disciplinary action, up to and including termination from employment.

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POLICY GROUP 4 – PERSONNEL

PSYCHOTROPIC DRUGS AND MEDICAL EVALUATIONS

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A Moody Early Childhood Center officer or employee shall not:

1. Recommend to a student or a parent that the student use a psychotropic drug;
2. Suggest any particular diagnosis; or
3. Exclude a student from attending a class or participating in a school-related activity because of the parent's refusal to consent to the administration of a psychotropic drug to a student or to a psychiatric evaluation or examination of a student.

This policy does not prevent a Moody Early Childhood Center officer or employee from:

1. Making an appropriate referral under Child Find;
2. Recommending that a child be evaluated by an appropriate medical practitioner, if the employee is a registered nurse, advanced nurse practitioner, physician, or certified or appropriately credentialed mental health professional; or
3. Discussing any aspect of a child's behavior or academic progress with the child's parent or other Moody Early Childhood Center officer or employee, as appropriate.

Education Code 38.016.

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**POLICY GROUP 4 – PERSONNEL
REPORTING EMPLOYEE MISCONDUCT**

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PART I: REPORTING EDUCATOR MISCONDUCT

SEC. 1. MATTERS TO REPORT

In addition to the reporting requirements under Family Code 261.101¹, the Superintendent shall notify the State Board for Educator Certification (the “SBEC”) if:

1. An educator employed by or seeking employment with Moody Early Childhood Center has a reported criminal history and Moody Early Childhood Center obtained information about the educator’s criminal record by a means other than the criminal history clearinghouse established by the Texas Department of Public Safety;
2. An educator’s employment with Moody Early Childhood Center was terminated and there is evidence that the educator:
 - a. Abused or otherwise committed an unlawful act with a student or minor;
 - b. Was involved in a romantic relationship or solicited or engaged in sexual conduct with a student or minor;
 - c. Possessed, transferred, sold, or distributed a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. § 801 *et seq.*;
 - d. Illegally transferred, appropriated, or expended Moody Early Childhood Center property or funds;
 - e. Attempted by fraudulent or unauthorized means to obtain or alter a professional certificate or license for purposes of promotion or additional compensation; or
 - f. Committed a crime or any part of a crime while on Moody Early Childhood Center property or at a school-sponsored event.
3. The educator resigned and reasonable evidence supported a recommendation to terminate the individual because he or she engaged in misconduct described in paragraph 2 above; or
4. The educator engaged in conduct that violated the assessment instrument security procedures established by Education Code section 39.0301.

Education Code 21.006, 22.087; 19 TAC 243.14(d).

SEC. 2. REQUIREMENT TO COMPLETE INVESTIGATION

The Superintendent shall complete an investigation of an educator that involves evidence that the educator may have engaged in misconduct items 2(a) or (b) in Part I, Section 1 (Matters to

¹ During the 87th regular legislative session in 2021, the standard for reporting child abuse and neglect under Texas Family Code §261.101 was changed from “cause to believe” to “***reasonable cause to believe.***” A person having reasonable cause to believe abuse or neglect has occurred is required to make a report within 48 hours of when they first had reasonable cause to believe the abuse or neglect occurred.

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Report) above, despite the educator’s resignation from employment before completion of the investigation. *Education Code 21.006(b-1)*.

SEC. 3. DEADLINE FOR REPORTING TO SBEC

The Superintendent must notify the SBEC in writing not later than the seventh business day after the date the Superintendent receives a report under Part I, Section 6 (Report by Principal) or otherwise knew about an educator’s termination of employment or resignation following an alleged incident of misconduct or an employee’s criminal record. *Education Code 21.006(c)*.

SEC. 4. CONTENTS OF REPORT

The report shall be in writing in a form prescribed by the SBEC, and may be filed through the Internet portal developed and maintained by the SBEC, and must include the name or names of any student or minor who is the victim of abuse or unlawful conduct by an educator. The report shall, at a minimum, describe in detail the factual circumstances requiring the report and identify the subject of the report by providing the following available information:

1. Name and any aliases;
2. Certificate number, if any, or social security number;
3. Last known mailing address and home and daytime phone numbers;
4. All available contact information for any alleged victim or victims;
5. Name or names and any available contact information of any relevant witnesses to the circumstances requiring the report;
6. Current employment status of the subject, including any information about proposed termination, notice of resignation, or pending employment actions; and
7. Involvement by a law enforcement or other agency, including the Texas Education Agency.

Education Code 21.006(c-1); 19 TAC 249.14(f).

The Superintendent shall include the name of a student or minor who is the victim of abuse or unlawful conduct by an educator, but the name of the student or minor is not public information under Government Code Chapter 552. *Education Code 21.006(h)*.

SEC. 5. REPORT NOT REQUIRED

The Superintendent is not required to notify the SBEC or file a report if the Superintendent:

1. Completes an investigation into an alleged incident of misconduct for:
 - a. Abuse or unlawful act with a student or minor; or
 - b. Involvement in a romantic relationship with or solicitation or engagement in sexual contact with a student or minor; and

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2. Determines the educator did not engage in the alleged incident of misconduct.

Education Code 21.006(c-2).

The Superintendent should seek legal counsel before making any such determination, and if there is any doubt or concern, err on the side of reporting to the SBEC.

SEC. 6. REPORT BY THE PRINCIPAL

The Principal of a Moody Early Childhood Center campus must notify the Superintendent not later than the seventh business day after learning of an educator's termination of employment or resignation following an alleged incident of misconduct or the principal knew about an educator's criminal record, as described in Part I, Section 1 (Matters to Report) above. *Education Code 21.006(b-2).*

SEC. 7. NOTICE OF REPORT

a) Notice to the Board and Educator

The Superintendent shall notify the Board and the educator of the filing of a report to the SBEC. The Superintendent shall notify the Board before filing the report. *Education Code 21.006(d); 19 TAC 249.14(d)(3)(B).*

b) Notice Prior to Accepting Educator's Resignation

Before accepting an employee's resignation that requires filing a report, the Superintendent shall inform the educator in writing that a report will be filed and that sanctions against his or her certificate may result as a consequence. *19 TAC 249.14(d)(3).*

c) Notice to Parents

The Superintendent or designee shall provide notice to the parent or guardian of a student if there is evidence that an educator:

1. Abused or otherwise committed an unlawful act with a student or minor; or
2. Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor.

The notice must inform the parent or guardian:

1. That the alleged misconduct occurred;
2. Whether the educator was terminated following an investigation of the alleged misconduct or resigned before completion of the investigation; and

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3. Whether a report was submitted to the SBEC concerning the alleged misconduct.

The Superintendent or designee shall provide such notice as soon as feasible after Moody Early Childhood Center becomes aware that alleged misconduct may have occurred.

Education Code 21.0061.

SEC. 8. IMMUNITY

The Superintendent, a director, or principal who in good faith and while acting in an official capacity files a report with the SBEC under this policy or communicates with another superintendent, director, or principal concerning an educator’s criminal record or alleged incident of misconduct is immune from civil or criminal liability that might otherwise be incurred or imposed. *Education Code 21.006(e).*

PART II: REPORTING EMPLOYEE (NON-EDUCATOR) MISCONDUCT

SEC. 1. APPLICABILITY

Part II of this policy applies to a person who is employed by Moody Early Childhood Center and who does not hold a certification or permit issued under Subchapter B, Chapter 21 of the Texas Education Code.

SEC. 2. TERMINATIONS OR RESIGNATIONS TO REPORT

In addition to the reporting requirement under Section 261.10, Family Code, the Superintendent shall notify the Commissioner of Education (the “Commissioner”) if:

1. An employee’s employment at Moody Early Childhood Center was terminated and there is evidence that the employee:
 - a. Abused or otherwise committed an unlawful act with a student or minor; or
 - b. Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor; or
2. The employee resigned and there is evidence that the employee engaged in misconduct described in item 1 above.

Education Code 22.093(c).

SEC. 3. NOTICE BY THE PRINCIPAL

The Principal of any Moody Early Childhood Center campus must notify the Superintendent not later than the seventh business day after the date of an employee’s termination of employment or

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REPORTING EMPLOYEE MISCONDUCT**

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resignation in the circumstances discussed in Part II, Section 2 (Terminations or Resignations to Report). *Education Code 22.093(e)*.

SEC. 4. REQUIREMENT TO COMPLETE INVESTIGATION

The Superintendent shall complete an investigation of an employee that involves evidence that the employee may have engaged in misconduct described in Part II, Section 2 (Terminations or Resignations to Report), despite the employee's resignation from employment before completion of the investigation. *Education Code 22.093(d)*.

SEC. 5. DEADLINE TO REPORT TO THE COMMISSIONER

The Superintendent must notify the Commissioner by filing a report not later than the seventh business day after the date the Superintendent receives a report from a Principal or knew about an employee's termination of employment or resignation following an alleged incident of misconduct described in Part II, Section 2 (Terminations or Resignations to Report).

The report must be in writing and in a form prescribed by the Commissioner.

Education Code 22.093(f).

SEC. 6. ADDITIONAL REPORTS

The Superintendent shall notify the Board and the employee of the filing of the report. *Education Code 22.093(g)*.

SEC. 7. IMMUNITY

The Superintendent, director, or Principal who in good faith and while acting in an official capacity files a report under this Sec. 4.3.2 is immune from civil or criminal liability that might otherwise be incurred or imposed. *Education Code 22.093(h)*.

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**POLICY GROUP 4 – PERSONNEL
REPORTING CHILD ABUSE AND NEGLECT**

PG-4.12

SEC. 1. REPORTING CHILD ABUSE OR NEGLECT

Any Moody Early Childhood Center officer, director, employee, agent, volunteer or contractor having reasonable cause to believe that a child’s physical or mental health or welfare has been adversely affected by abuse, maltreatment or neglect by any person shall **immediately** make a report (within 48 hours or less) to at least one of the following authorities after learning of facts giving rise to the reasonable cause to believe:

1. A local or state law enforcement agency;
2. The Texas Department of Family and Protective Services (“DFPS”), Child Protective Services Division;
3. A local office of Child Protective Services, where available; or
4. The state agency that operates, licenses, or registers the facility in which the alleged child abuse or neglect occurred.

If a professional has reasonable cause to believe that a child has been abused, maltreated or neglected or may be abused, maltreated or neglected, or that a child is a victim of an offense under Penal Code 21.11 (Indecency with a Child), and the professional has reasonable cause to believe that the child has been abused as defined by law, the professional shall make a report **not later than the 48th hour** after the hour the professional first has reasonable cause to believe that the child has been or may be abused or neglected or is a victim of an offense under Penal Code 21.11. A professional **may not delegate to or rely on** another person to make the report. For purposes of this policy, “professional” means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children.

A report should reflect the reporter’s belief that a child has been or may be abused or neglected or has died of abuse or neglect. The person making the report shall identify, if known:

1. The name and address of the child;
2. The name and address of the person responsible for the care, custody, or welfare of the child; and
3. Any other pertinent information concerning the alleged or suspected abuse or neglect.

If the suspected abuse or neglect involves a person responsible for the custody, care or welfare of the child, the report must generally be made to the DFPS. All other reports should be made to any local or state law enforcement agency, the DFPS, the Texas Education Agency (if abuse or neglect occurred at school), another state agency where the abuse or neglect occurred, or an agency designated by a court responsible for protection of children.

Texas Family Code, Chapter 261; 19 TAC 100.1211.

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REPORTING CHILD ABUSE AND NEGLECT**

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SEC. 2. TRAINING

The Superintendent or designee shall ensure that training on child abuse and neglect is provided as required by law.

Training concerning prevention techniques for, and recognition of, sexual abuse, trafficking, and all other maltreatment of children, including the sexual abuse, trafficking, and other maltreatment of children with significant cognitive disabilities, must be provided as a part of new employee orientation to all new Moody Early Childhood Center employees. The training must include:

1. Factors indicating a child is at risk for sexual abuse, trafficking, or other maltreatment;
2. Warning signs indicating a child may be a victim of sexual abuse, trafficking, or other maltreatment;
3. Internal procedures for seeking assistance for a child who is at risk for sexual abuse, trafficking, or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;
4. Techniques for reducing a child’s risk for sexual abuse, trafficking, or other maltreatment; and
5. Information on community organizations that have relevant research-based programs that are able to provide training or other education for Moody Early Childhood Center staff, students, and parents.

Moody Early Childhood Center must maintain records that include the district or charter school staff members who participated in the training.

SEC. 3. RETALIATION PROHIBITED

Moody Early Childhood Center may not suspend or terminate the employment of, discriminate against, or take any other adverse employment action against a person who is a professional, as that term is defined by Texas Family Code 261.101(b), and who in good faith:

1. Reports child abuse or neglect to:
 - a. The person’s supervisor;
 - b. An administrator of the facility where the person is employed;
 - c. A state regulatory agency; or
 - d. A law enforcement agency; or
2. Initiates or cooperates with an investigation or proceeding by a governmental entity relating to an allegation of child abuse or neglect.

“Adverse employment action” means an action that affects an employee’s compensation, promotion, transfer, work assignment, or performance evaluation, or any other employment action that would dissuade a reasonable employee from making or supporting a report of abuse or neglect.

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Texas Family Code 261.110.

SEC. 4. POSTING INFORMATION

Using a format and language that is clear, simple, and understandable to students, Moody Early Childhood Center shall post, in English and in Spanish:

1. The current toll-free DFPS Abuse Hotline telephone number;
2. Instructions to call 911 for emergencies; and
3. Directions for accessing the DFPS website (www.txabusehotline.org) for more information on reporting abuse, neglect, and exploitation.

This information shall be posted at each Moody Early Childhood Center campus in at least one high-traffic, highly and clearly visible public area that is readily accessible to and widely used by students. The information must be on a poster (11.17 inches or larger) in large print and placed at eye-level to the student for easy viewing. The current toll-free DFPS Abuse Hotline telephone number should be in bold print.

SEC. 5. ANNUAL REVIEW

The Board shall annually review policies for reporting child abuse and neglect. *19 Tex. Admin. Code § 61.1051(b).*

SEC. 6. COMPUTER TECHNICIAN REPORTS OF CHILD PORNOGRAPHY

Any computer technician employed by Moody Early Childhood Center who, in the course and scope of employment or business with Moody Early Childhood Center, views an image on a computer that is or appears to be child pornography must immediately report the discovery to a local or state law enforcement agency or the Cyber Tipline at the National Center for Missing and Exploited Children. The report must include the name and address of the owner or person claiming a right to possession of the computer, if known, and as permitted by federal law.

Except in a case of willful or wanton misconduct, a computer technician may not be civilly liable for reporting or failing to report the discovery of an image. A computer technician who intentionally fails to report an image may be subject to criminal prosecution. *Business & Commerce Code 110.002.*

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**POLICY GROUP 4 – PERSONNEL
EMPLOYEE SEARCHES**

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SEC. 1. EMPLOYEE SEARCHES

Moody Early Childhood Center reserves the right to conduct searches to monitor compliance with rules concerning safety of employees, security of Moody Early Childhood Center and individual property, drugs and alcohol, and possession of other prohibited items.

“Prohibited items” include illegal drugs, alcoholic beverages, prescription drugs or medications not used or possessed in compliance with a current valid prescription, weapons, any items of an obscene, harassing, demeaning, or violent nature, and any property in the possession or control of an employee who does not have authorization from the owner of such property to possess or control the property.

“Control” means knowing where a particular item is, having placed an item where it is currently located, or having any influence over its continued placement.

In addition to Moody Early Childhood Center premises, Moody Early Childhood Center may search employees, their work areas, lockers, personal vehicles if driven or parked on Moody Early Childhood Center property, and other personal items such as bags, purses, briefcases, backpacks, lunch boxes, and any and all other containers.

SEC. 2. NO EXPECTATION OF PRIVACY

There is no general or specific expectation of privacy in the Moody Early Childhood Center workplace, either on Moody Early Childhood Center property or while on duty. In general, employees should assume that what they do while on duty or on Moody Early Childhood Center property is not private. All employees and all of the areas listed above are subject to search at any time. The areas in question may be searched at any time, with or without the employee being present. As a general rule, with the exception of items relating to personal hygiene or health, no employee should ever bring anything to work or store anything at work that he or she would not be prepared to show and possibly turn over to Moody Early Childhood Center officials and/or law enforcement authorities.

SEC. 3. LOCKERS AND OTHER STORAGE AREAS

If an employee uses a locker or other storage area at work, including a locking desk drawer or locking cabinet, Moody Early Childhood Center will either furnish the lock and keep a copy of the key or combination, or else allow the employee to furnish a personal lock. If the employee uses a personal lock, he or she must provide a copy of the key or combination to Moody Early Childhood Center.

SEC. 4. APPLICABILITY OF POLICY

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EMPLOYEE SEARCHES**

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All Moody Early Childhood Center employees are subject to this policy. However, any given search may be restricted to one or more specific individuals, depending upon the situation. Searches may be done on a random basis, or based upon reasonable suspicion. “Reasonable suspicion” means circumstances suggesting to a reasonable person that there is a possibility that one or more individuals may be in possession of a prohibited item, as defined above.

Any search under this policy will be done in a manner protecting employee privacy, confidentiality, and personal dignity to the greatest extent possible. Moody Early Childhood Center will respond severely to any unauthorized release of information concerning individual employees.

No employee will ever be physically forced to submit to a search. However, an employee who refuses to submit to a search request by Moody Early Childhood Center will face disciplinary action, up to and possibly including immediate termination of employment.

SEC. 5. VIDEO SURVEILLANCE

In order to promote the safety of Moody Early Childhood Center employees, students, and visitors, as well as the security of its facilities, Moody Early Childhood Center may conduct video surveillance of any portion of its premises at any time. The only areas excepted from video surveillance are private areas of restrooms, showers, and dressing rooms. All video cameras will be positioned in appropriate places in and around Moody Early Childhood Center buildings and used to promote the safety and security of people and property.

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MANUAL**

**POLICY GROUP 4 – PERSONNEL
WAGE AND HOUR LAWS**

PG-4.14

SEC. 1. FAIR LABOR STANDARDS ACT

a) Classification of Positions

The Superintendent or designee shall determine the classification of positions or employees as “exempt” or “nonexempt” for purposes of payment of overtime in compliance with the Fair Labor Standards Act (FLSA).

b) Exempt

Moody Early Childhood Center shall pay employees who are exempt from the overtime pay requirements of the FLSA on a salary basis. The salaries of these employees are intended to cover all hours worked, and Moody Early Childhood Center shall not make deductions that are prohibited under the FLSA or state law.

Exempt employees (excluding teachers) are paid on a salaried basis, and their salary is not reduced for absences of less than one full day.

An employee who believes deductions have been made from his or her salary in violation of this policy should bring the matter to Moody Early Childhood Center’s attention, through the Moody Early Childhood Center complaint process. If improper deductions are confirmed, Moody Early Childhood Center will reimburse the employee and take steps to ensure future compliance with the FLSA.

The Superintendent or designee may assign noncontractual supplemental duties to personnel exempt under the FLSA, as needed. The employee may be compensated for these assignments according to Moody Early Childhood Center’s compensation plans.

c) Nonexempt

Nonexempt employees may be compensated on an hourly basis or on a salary basis. Employees who are paid on an hourly basis shall be compensated for all hours worked. Employees who are paid on a salary basis are paid for a 40-hour workweek and do not earn additional pay unless the employee works more than 40 hours.

A nonexempt employee shall have the approval of his or her supervisor before working overtime. An employee who works overtime without prior approval is subject to discipline, up to and including termination, but shall be compensated in accordance with the FLSA.

d) Minimum Wage and Overtime

Unless an exemption applies, Moody Early Childhood Center shall pay each of its employees not less than minimum wage for all hours worked and for exempt employees, in accordance with

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**POLICY GROUP 4 – PERSONNEL
WAGE AND HOUR LAWS**

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the minimum salary basis requirements (except for instructional employees as defined in the FLSA).

Unless an exemption applies, Moody Early Childhood Center shall pay a non-exempt employee not less than one and one-half times the employee's regular rate of pay for all actual hours worked in excess of forty in any workweek.

e) Workweek Defined

For purposes of FLSA compliance, the workweek for school employees shall be between 6:45 a.m. - 6:30 p.m. Monday - Friday.

SEC. 2. WAGE AND HOUR RECORDS

Moody Early Childhood Center shall maintain and preserve payroll or other records for nonexempt employees containing the information required by the regulations under the FLSA. Records shall also be kept in accordance with applicable State record retention schedules.

SEC. 3. COMPLIANCE WITH FEDERAL AND STATE WAGE AND HOUR LAWS

Moody Early Childhood Center shall take all reasonable steps to ensure that employees receive the correct amount of pay in each paycheck and that employees are paid promptly on the scheduled paydays and in accordance with Federal and State Wage and Hour Laws including the FLSA and the Texas Payday Act. The Superintendent or designee shall adopt procedures to ensure that Moody Early Childhood Center complies with applicable Federal and State Wage and Hour Laws.

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**POLICY GROUP 4 – PERSONNEL
WORKERS’ COMPENSATION**

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As permitted by state law, Moody Early Childhood Center provides workers’ compensation benefits to employees who suffer a work-related illness or personal injury due to accidents arising out of their employment with Moody Early Childhood Center. These benefits are paid for entirely by Moody Early Childhood Center and help pay for medical treatment and make up for part of the income lost while recovering. All work-related illnesses, accidents, or injuries should be reported immediately to the employee’s supervisor and the Superintendent or designee.

Employees who suffer a work-related injury or illness, and who must be off work due to such injury or illness, shall be governed by applicable provisions of the Workers’ Compensation Act (the “WCA”) and the federal Family and Medical Leave Act where applicable.

The Superintendent shall develop procedures to implement Moody Early Childhood Center’s Workers Compensation program, including procedures for requesting and use of leave benefits, injury reporting requirements, return to work and reinstatement procedures, absence control procedures, and any other procedure necessary to effectuate the WCA as required by law

SEC. 1. MANDATORY REQUIREMENTS

Workers’ Compensation Insurance covers all employees during the time they are on the job.

1. Covered injuries and illnesses may be physical or mental and specific or cumulative.
2. An injury is considered job-related when it arises out of and in the course and scope of employment.
3. The activity that caused the injury must also be an activity that is in the course and scope of employment.

SEC. 2. DENIAL OF WORKERS’ COMPENSATION INSURANCE BENEFITS

Except as otherwise required by state law, injuries not covered by Workers’ Compensation Insurance include those where the employee:

1. Was intoxicated on alcohol or drugs.
2. Was in the process of committing a felony (and has been convicted).
3. Was participating in a social or recreational activity off-duty that was not directly related to his or her work.
4. Was commuting to or from work unless doing so under the direct control/orders of Moody Early Childhood Center on school-related business.
5. Caused the injury intentionally, or committed suicide.
6. Was “horsing around” or fighting on the job.
7. Violated a school safety policy or procedure.

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**POLICY GROUP 4 – PERSONNEL
WORKERS’ COMPENSATION**

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If Moody Early Childhood Center denies a Workers’ Compensation Insurance claim:

1. The employee may contest the decision in accordance with the provisions of the Workers’ Compensation laws of the State of Texas.
2. All costs incurred by the employee in contesting a denial of the claim shall be the sole responsibility of the employee.
3. Moody Early Childhood Center is not obligated to make any commitments or statements pertaining to its liability concerning an employee’s injury or illness.

SEC. 3. FRAUDULENT CLAIMS FOR WORKERS’ COMPENSATION

Filing a false or fraudulent claim is a violation of law and Moody Early Childhood Center’s policy, and can result in disciplinary employment actions, including termination of employment.

SEC. 4. PROHIBITED DISCRIMINATION

Moody Early Childhood Center may not discharge or in any other manner discriminate against an employee because the employee has:

1. Filed a workers’ compensation claim in good faith.
2. Hired a lawyer to represent the employee in a claim.
3. Instituted or caused to be instituted in good faith a proceeding under the WCA.
4. Testified or is about to testify in a proceeding under the WCA.

Labor Code 451.001.

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POLICY GROUP 4 – PERSONNEL
EMPLOYEE ATTENDANCE

PG-4.16

SEC. 1. ATTENDANCE

Moody Early Childhood Center expects all employees to conduct themselves in a professional manner during their employment. This includes practicing good attendance habits. All employees should regard coming to work on time, working their shift as scheduled, and arriving and leaving at the scheduled time as essential functions of their jobs.

Moody Early Childhood Center has established the following policies for employee attendance:

1. Employees should arrive to work and be at their assigned duty station no later than their scheduled start time.
2. Employees should remain at their duty station unless the needs of the job require being elsewhere or as authorized by their supervisor, except during authorized breaks.
3. Employees should take only the time normally allowed for breaks as authorized by their supervisor.
4. Non-salaried/non-exempt employees should leave promptly at the end of their scheduled workday, unless given permission by their supervisor to work past that time.
5. Employees should call in and personally notify a supervisor if they will be absent or tardy, unless a verifiable emergency makes it impossible to do so.
6. In addition to any time clock or time-recording system Moody Early Childhood Center may implement, time keeping for non-exempt employees must be done weekly and manually using Moody Early Childhood Center's approved time sheets.

SEC. 2. NOTICE OF ABSENCE OR TARDINESS

Absence or tardiness may be excused under exceptional circumstances, but generally only if an employee provides prior written notice of the need to be absent or tardy. Such advance notice is necessary so that other arrangements can be made to cover the employee's responsibilities, if necessary.

The Superintendent or designee and Business Department shall develop procedures concerning employee absence and tardiness. These procedures shall be distributed to all employees; this distribution may be through the Moody Early Childhood Center Employee Handbook.

SEC. 3. EMPLOYEE WORK SCHEDULES

The Superintendent or designee and Business Department shall see that work schedules are developed and distributed for each position with Moody Early Childhood Center.

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MANUAL**

POLICY GROUP 4 – PERSONNEL
EMPLOYEE ATTENDANCE

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SEC. 4. JOB ABANDONMENT

An employee who is absent without notice for three or more consecutive days shall be considered as having abandoned his or her job; Moody Early Childhood Center shall process the employee's work separation as a voluntary resignation without good cause related to the work.

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POLICY GROUP 4 – PERSONNEL

EMPLOYEE DRESS AND GROOMING STANDARDS

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An employee's dress and grooming shall be clean, neat, in a manner appropriate for his or her assignment, and in accordance with any additional standards established by the employee's supervisor and/or the Superintendent or designee.

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**POLICY GROUP 4 – PERSONNEL
SOCIAL MEDIA AND ELECTRONIC COMMUNICATIONS
WITH STUDENTS**

PG-4.18

SEC. 1. ELECTRONIC AND SOCIAL MEDIA

Electronic media includes all forms of social media, such as text messaging, instant messaging, electronic mail (e-mail), web logs (blogs), electronic forums (chat rooms), video-sharing web sites, editorial comments posted on the Internet, and social network sites. Electronic media also includes all forms of telecommunication, such as land lines, cell phones, and web-based applications.

SEC. 2. ELECTRONIC COMMUNICATIONS WITH STUDENTS

a) Introduction

In this policy, “electronic communication” means any communication facilitated by the use of any electronic device, including a telephone, cellular telephone, computer, computer network, personal data assistant, or pager. The term includes e-mails, text messages, instant messages, and any communications made through an Internet website, including a social media website or a social networking website.

b) Electronic Communications with Students

Moody Early Childhood Center employees may engage in electronic communications with students who are currently enrolled in Moody Early Childhood Center for academic purposes only. All other employees are prohibited from communicating electronically with a student who is enrolled in Moody Early Childhood Center unless express authorization is provided by the Superintendent or designee. An employee is not subject to these provisions to the extent he or she has a social or family relationship with a student.

i. Inappropriate Communications

Moody Early Childhood Center employees are prohibited from using electronic communications in a manner that constitutes prohibited harassment or abuse of a Moody Early Childhood Center student; adversely affects a student’s learning, mental health, or safety; includes threats of violence against a student; reveals confidential information about a student; or constitutes an inappropriate communication with a student.

Factors that may be considered in assessing whether the communication is inappropriate include, but are not limited to:

- The nature, purpose, timing, and amount of the communication;
- The subject matter of the communication;
- Whether the communication was made openly or the educator attempted to conceal the communication;

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- Whether the communication could be reasonably interpreted as soliciting sexual contact or a romantic relationship ;
- Whether the communication was sexually explicit; and
- Whether the communication involved discussion(s) of the physical or sexual attractiveness or the sexual history, activities, preferences, or fantasies of either the educator or the student.

ii. No Expectation of Privacy

Moody Early Childhood Center have no expectation of privacy in electronic communications with students. Employees shall comply with Moody Early Childhood Center’s requirements for record retention and destruction to the extent those requirements apply to electronic communications with students.

*c) **Incident Notification***

A Moody Early Childhood Center employee shall report to the Principal any incident in which a student engages in improper communications with the employee. Such reports should include a summary of the student’s communication, as well as the time, date, and method of communication.

*d) **Disclosing Personal Telephone Number or E-mail Address***

A Moody Early Childhood Center employee may elect not to disclose to students the employee’s personal telephone number or e-mail address.

SEC. 3. PERSONAL USE

Employees shall be held to the same professional standards in their public use of electronic media as they are for any other public conduct. If an employee’s use of electronic media violates state or federal law or Moody Early Childhood Center policy, or interferes with the employee’s ability to effectively perform his or her job duties, the employee is subject to disciplinary action, up to and including termination of employment.

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**POLICY GROUP 4 – PERSONNEL
TECHNOLOGY RESOURCES**

PG-4.19

SEC. 1. TECHNOLOGY RESOURCES DEFINED

For purposes of this policy, the term “technology resources” means electronic communication systems and electronic equipment belonging to Moody Early Childhood Center.

SEC. 2. ACCESS TO TECHNOLOGY RESOURCES

Moody Early Childhood Center’s technology resources, including its network and access to the Internet, are made available to employees primarily for administrative and instructional purposes or as otherwise allowed by administrative regulation.

Limited personal use of Moody Early Childhood Center’s technology resources is permitted if the use:

- 1) Does not result in any direct cost paid with State funds, or if Moody Early Childhood Center is reimbursed for any direct costs involved;
- 2) Does not relate to private commercial purposes;
- 3) Involves only incidental amounts of employee time, comparable to reasonable coffee breaks during the day; and
- 4) Does not have an adverse impact on an employee’s job performance.

Employees may only access the Internet through Moody Early Childhood Center’s approved Internet firewall.

All technology resources are Moody Early Childhood Center property, and any information located in or on technology resources is also Moody Early Childhood Center property and will be subject to inspection by Moody Early Childhood Center.

SEC. 3. E-MAIL AND VOICE MAIL SYSTEMS

All messages sent, received, composed and/or stored on Moody Early Childhood Center e-mail and/or voice mail systems are the property of Moody Early Childhood Center. E-mail transmissions and other use of Moody Early Childhood Center’s electronic communications systems are not confidential and can be monitored at any time to ensure appropriate use.

SEC. 4. CONFIDENTIALITY

Employees shall not use a password, access a file, or retrieve any stored information unless authorized to do so. Employees may not attempt to gain access to another employee’s files/messages.

Additionally, access to student records accessible through technology resources is restricted to those employees with a legitimate educational interest in such records in accordance with the

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Family Educational Rights and Privacy Act (“FERPA”). An employee has a legitimate educational interest in student records if:

1. The information is necessary for the employee to perform appropriate tasks that are specified in his or her position;
2. The information is to be used within the context of official school business and not for purposes extraneous to the employee’s areas of responsibility;
3. The information is relevant to the accomplishment of some task or to a determination about the student; or
4. The information is to be used consistently with the purpose for which student records are maintained.

Having access to student records through technology resources does not constitute authority to share this information with anyone without authority or permission to view student records.

SEC. 5. PRIVACY AND MONITORED USE

All files and messages on Moody Early Childhood Center’s technology resources are Moody Early Childhood Center property. They are not the property of any employee, even if created by an employee. Anything created on the Internet may, and likely will, be reviewed by others. If necessary, employees shall take steps to help protect the security of documents. Moody Early Childhood Center has the right, but not the duty, to monitor any and all aspects of its technology resources, including, but not limited to, monitoring sites employees visit on the Internet. Employees have no expectation of privacy in anything they create, store, send, or receive on Moody Early Childhood Center’s technology resources.

SEC. 6. RESTRICTIONS

- 1) Employees are not allowed to use Moody Early Childhood Center’s technology resources for any reason other than official school business, except as allowed under Section 2 (Access to Technology Resources) above.
- 2) Employees may not use e-mail or the Internet to send or receive materials, proprietary financial information, or other similar materials that violate copyright law.
- 3) Moody Early Childhood Center’s e-mail system may not be used to create any offensive or disruptive messages. Among those which are considered offensive are any messages that contain sexual implications, racial or gender-specific slurs, or any other comment that offensively addresses an individual’s age, sexual orientation, religious or political beliefs, national origin, disability, or anything that could be construed as harassment or disparaging of others.
- 4) Employees should refrain from sending non-business-related e-mails to other Moody Early Childhood Center employees or persons outside the Moody Early Childhood Center system.

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- 5) Moody Early Childhood Center is responsible for maintaining records of software licensing agreements for Moody Early Childhood Center. In order to ensure compliance with copyright laws and software licensing agreements, and help prevent computer viruses from being transmitted through the system, employees are not permitted to install or download any software or content, such as music, videos, or non-work related “zipped” files onto Moody Early Childhood Center’s computer system without prior approval from the Principal or designee.
- 6) Unauthorized duplication of software, often referred to as “piracy,” is a federal crime. Employees are not permitted to make, acquire, or use unauthorized copies of computer software.

Employees who are authorized to use Moody Early Childhood Center’s technology resources are required to abide by the provisions of this policy and any related administrative procedures. Failure to do so can result in suspension or termination of privileges and may lead to disciplinary action, up to and including termination of employment. Employees should notify their immediate supervisor(s) or the <<Information Systems Department>> upon learning of violations of this policy.

SEC. 7. ACCEPTABLE USE POLICY

The Superintendent or designee shall develop and implement administrative regulations and guidelines for acceptable use of Moody Early Childhood Center’s technology resources. Such regulations and guidelines shall be provided annually to employees as part of the Employee Handbook, or in another method deemed appropriate by the Superintendent.

Access to Moody Early Childhood Center’s technology resources is a privilege, not a right. All employee users will be required to acknowledge receipt and understanding of Moody Early Childhood Center’s acceptable use regulations and guidelines, and shall agree in writing to allow monitoring of their use and to comply with such regulations and guidelines. Noncompliance with Moody Early Childhood Center’s acceptable use policy may result in disciplinary action, up to and including termination, as allowed by Moody Early Childhood Center policy. Violations of law may result in referral to criminal authorities, as well as disciplinary action by Moody Early Childhood Center.

SEC. 8. DISCLAIMER OF LIABILITY

Moody Early Childhood Center will not be liable for an employee’s inappropriate use of technology resources, violations of copyright restrictions or other laws, users’ mistakes or negligence, and costs incurred by users. Moody Early Childhood Center is not responsible for ensuring the availability of technology resources or the accuracy, age appropriateness, or usability of any information accessed through the Internet.

SEC. 9. ACCESS TO CELLULAR AND/OR WIRELESS TELEPHONE EQUIPMENT AND ACCOUNTS

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Access to cellular and/or wireless telephone equipment and accounts belonging to Moody Early Childhood Center is made available exclusively for instructional and administrative purposes in accordance with guidelines and regulations developed by Moody Early Childhood Center. Access to this equipment is a privilege, not a right, and can be revoked at any time.

The Superintendent or designee shall develop and define guidelines for the responsible and ethical use of Moody Early Childhood Center-supplied telephone equipment and accounts. Such guidelines shall be distributed to all Moody Early Childhood Center employees.

a) Consequences for Violations

Violations of Moody Early Childhood Center’s guidelines for access to cellular and/or wireless telephone equipment and accounts will be treated like other allegations of wrongdoing. Allegations of misconduct will be adjudicated according to established procedures. Sanctions for violations of these guidelines may include, but are not limited to, one or more of the following:

1. Temporary or permanent revocation of access to some or all cellular or wireless telephone resources.
2. Disciplinary action, up to and including termination.
3. Legal action according to applicable laws and contractual agreements.

SEC. 10. RECORD RETENTION

Moody Early Childhood Center employees shall retain electronic records pertaining to Moody Early Childhood Center business, whether created or maintained using Moody Early Childhood Center’s technology resources or using personal technology resources, in accordance with Moody Early Childhood Center’s record management program.

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POLICY GROUP 4 – PERSONNEL
BUILDING USE**

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Moody Early Childhood Center employees seeking to schedule use of Moody Early Childhood Center buildings and facilities must submit a request for such use to the Executive Director.

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POLICY GROUP 4 – PERSONNEL

**SOLICITATION AND DISTRIBUTION OF
PROMOTIONAL MATERIALS AND DIETARY SUPPLEMENTS**

PG-4.22

SEC. 1. PROHIBITION ON SOLICITATION AND DISTRIBUTION OF PROMOTIONAL MATERIALS

Moody Early Childhood Center prohibits solicitation of employees by salespersons or other employees on Moody Early Childhood Center property.

Moody Early Childhood Center further prohibits the distribution of promotional or sales literature on Moody Early Childhood Center property by salespersons or employees at all times.

Commercial advertisements or sales for personal profit are also prohibited.

SEC. 2. PROHIBITION ON DIETARY SUPPLEMENTS

Employees of Moody Early Childhood Center may not:

1. Knowingly sell, market, or distribute a dietary supplement that contains performance enhancing compounds to a primary or secondary education student with whom the employee has contact as part of the employee's school duties; or
2. Knowingly endorse or suggest the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by a primary or secondary education student with whom the employee has contact as part of the employee's school duties.

However, Moody Early Childhood Center employees are not prohibited from:

1. Providing or endorsing a dietary supplement that contains performance enhancing compounds to, or suggesting the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by, the employee's child; or
2. Selling, marketing, or distributing a dietary supplement that contains performance enhancing compounds to, or endorsing or suggesting the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by, a primary or secondary education student as part of activities that:
 - a. Do not occur on Moody Early Childhood Center property or at a school-related function;
 - b. Are entirely separate from any aspect of the employee's employment with Moody Early Childhood Center; and
 - c. Do not in any way involve information about or contacts with students that the employee has had access to, directly or indirectly, through any aspect of the employee's employment with Moody Early Childhood Center.

For purposes of this policy:

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**POLICY GROUP 4 – PERSONNEL
SOLICITATION AND DISTRIBUTION OF
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1. “Dietary supplement” means a product (other than tobacco) intended to supplement the diet that bears or contains one or more of the following dietary ingredients:
 - a. A vitamin;
 - b. A mineral;
 - c. An herb or other botanical;
 - d. An amino acid;
 - e. A dietary substance for use by man to supplement the diet by increasing the total dietary intake; or
 - f. A concentrate, metabolite, constituent, extract, or combination of any ingredient described in items (a)-(e).
2. “Performance enhancing compound” means a manufactured product for oral ingestion, intranasal application, or inhalation that:
 - a. Contains a stimulant, amino acid, hormone precursor, herb or other botanical, or any other substance other than an essential vitamin or mineral; and
 - b. Is intended to increase athletic or intellectual performance, promote muscle growth, or increase an individual’s endurance or capacity for exercise.

Education Code 38.011.

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**POLICY GROUP 4 – PERSONNEL
INTELLECTUAL PROPERTY**

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SEC. 1. OWNERSHIP OF INTELLECTUAL PROPERTY

All copyrights, trademarks, and other intellectual property rights shall remain with Moody Early Childhood Center at all times.

a) Student Work

A student shall retain all rights to work created as part of instruction or using Moody Early Childhood Center technology resources.

b) Employee Work

As an agent of Moody Early Childhood Center, a Moody Early Childhood Center employee shall not have rights to work he or she creates on Moody Early Childhood Center time or using Moody Early Childhood Center technology resources. Moody Early Childhood Center shall own any work or work product created by a Moody Early Childhood Center employee in the course and scope of his or her employment, including the right to obtain copyrights.

If the employee obtains a patent for such work, the employee shall grant a non-exclusive, non-transferable, perpetual, royalty-free, district-wide license to Moody Early Childhood Center for use of the patented work. A Moody Early Childhood Center employee shall own any work or work product produced on his or her own time, away from his or her job and with personal equipment and materials, including the right to obtain patents or copyrights.

A Moody Early Childhood Center employee may apply to the Superintendent or designee to use Moody Early Childhood Center materials and equipment in his or her creative projects, provided the employee agrees either to grant to Moody Early Childhood Center a non-exclusive, non-transferable, perpetual, royalty-free, district-wide license to use the work, or permits Moody Early Childhood Center to be listed as co-author or co-inventor if Moody Early Childhood Center contribution to the work is substantial. Moody Early Childhood Center materials do not include student work, all rights to which are retained by the student.

c) Works Made for Hire

A “work made for hire” is:

1. A work prepared by a Moody Early Childhood Center employee within the scope of employment; or
2. A work specially ordered or commissioned for use as a contribution to a collective work (for example, a supplementary work, a test, an instructional text, answer material for a test, etc.) if the parties agree in a signed written instrument that the work is considered a work made for hire.

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**POLICY GROUP 4 – PERSONNEL
INTELLECTUAL PROPERTY**

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Moody Early Childhood Center may hire an independent contractor for specially commissioned work(s) under a written works-made-for-hire agreement that provides that Moody Early Childhood Center shall own the work product created under the agreement, as permitted by copyright law. Independent contractors shall comply with copyright law in all works commissioned.

d) Return of Intellectual Property

Upon the termination of any person’s association with Moody Early Childhood Center, all permission to possess, receive, or modify Moody Early Childhood Center’s intellectual property shall also immediately terminate. All such persons shall return to Moody Early Childhood Center all intellectual property, including but not limited to any copies, no matter how kept or stored, and whether directly or indirectly possessed by such person.

SEC. 2. USE OF COPYRIGHTED MATERIAL

Unless the proposed use of a copyrighted work is an exception under the “fair use” guidelines maintained by the Superintendent or designee, Moody Early Childhood Center shall require an employee or student to obtain a license or permission from the copyright holder before copying, modifying, displaying, performing, distributing, or otherwise employing the copyright holder’s work for instructional, curricular, or extracurricular purposes. This policy does not apply to any work sufficiently documented to be in the public domain.

a) Technology Use

All persons are prohibited from using Moody Early Childhood Center technology in violation of any law including copyright law. Only appropriately licensed programs or software may be used with Moody Early Childhood Center technology resources. No person shall use Moody Early Childhood Center’s technology resources to post, publicize, or duplicate information in violation of copyright law. The Board shall direct the Superintendent or designee to employ all reasonable measures to prevent the use of Moody Early Childhood Center technology resources in violation of the law. All persons using Moody Early Childhood Center technology resources in violation of law shall lose user privileges in addition to other sanctions.

b) Electronic Media

Unless a license or permission is obtained, electronic media in the classroom, including motion pictures and other audiovisual works, must be used in the course of face-to-face teaching activities as defined by law.

SEC. 3. TRADEMARK USE

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POLICY GROUP 4 – PERSONNEL
INTELLECTUAL PROPERTY

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Moody Early Childhood Center protects all Moody Early Childhood Center and campus trademarks, including names, logos, mascots, and symbols, from unauthorized use.

a) School-Related Use

Moody Early Childhood Center grants permission to students, student organizations, parent organizations and other Moody Early Childhood Center affiliated school-support or booster organizations to use, without charge, Moody Early Childhood Center and campus trademarks to promote a group of students, an activity or event, a campus, or Moody Early Childhood Center, if the use is in furtherance of school-related business or activity. The Superintendent or designee shall determine what constitutes use in furtherance of school-related business or activity and is authorized to revoke permission if the use is improper or does not conform to administrative regulations.

b) Public Use

Members of the general public, outside organizations, vendors, commercial manufacturers, wholesalers, and retailers shall not use Moody Early Childhood Center trademarks without the written permission of the Superintendent or designee. Any production of merchandise with Moody Early Childhood Center trademarks for sale or distribution must be pursuant to a trademark licensing agreement and may be subject to the payment of royalties. Any individual, organization, or business that uses Moody Early Childhood Center trademarks without appropriate authorization shall be subject to legal action.

**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
MANUAL**

**POLICY GROUP 4 – PERSONNEL
CONSENSUAL ROMANTIC RELATIONSHIPS**

PG-4.23

SEC. 1. RATIONALE

Moody Early Childhood Center employees are expected to avoid apparent or actual conflicts of interest, favoritism, or bias in their workplace relationships. Consensual romantic relationships can give rise to such realities or perceptions and are thus potentially exploitative, especially when they involve supervisor/subordinate relationships. In addition, such relationships can and often do create an uncomfortable work or educational environment for students and staff.

SEC. 2. DEFINITION OF ROMANTIC RELATIONSHIPS

A “romantic relationships” is one that involves or is a prelude to sexual intimacy. A romantic relationship may be manifest through, but is not limited to, one or more of the following workplace behaviors: a pattern of exclusivity between two persons; consensual physical touching that implies a romantic intention or desire; the sharing of personal information appropriate for a romantic relationship but beyond the boundaries of a professional workplace relationship; actual physical intimacy; written communications or other actions that demonstrate or imply a romantic interest.

SEC. 3. RELATIONSHIPS BETWEEN EMPLOYEES AND STUDENTS

Employees shall never form romantic relationships with students. Any sexual relationship between a student and an employee is prohibited and unlawful, even if consensual.

SEC. 4. REPORTABLE ROMANTIC RELATIONSHIPS BETWEEN EMPLOYEES

Romantic relationships are generally discouraged between a Moody Early Childhood Center employee and that employee’s immediate or distant supervisor. The power differential makes such relationships open to abuse and to charges of sexual harassment or unprofessional conduct.

This policy is not intended to prohibit romantic or outside relationships among peers or colleagues; however, employees involved in such relationships are cautioned to avoid situations that may contribute to an uncomfortable work or educational environment for other employees or students.

SEC. 5. REPORTING REQUIREMENTS

In the event that consensual romantic relationships exist or begin to develop between an employee and supervisor, the supervisor is charged with the responsibility of notifying his or her immediate supervisor of the relationship. The reporting supervisor shall cooperate in making appropriate workplace arrangements and adjustments, which may include but are not limited to reassignments of duties, departments and/or locations.

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CONSENSUAL ROMANTIC RELATIONSHIPS**

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SEC. 6. FAILURE TO REPORT OR COOPERATE

Employees in positions of authority who fail to report a romantic relationship with a subordinate or fail to cooperate in efforts to reduce the potential for workplace conflicts as directed will be subject to disciplinary action, up to and including termination.

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**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
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POLICY GROUP 4 – PERSONNEL

EMPLOYEE COMPLAINTS AND GRIEVANCES (GENERAL)

PG-4.24

SEC. 1. GUIDING PRINCIPLES

Moody Early Childhood Center values the opinions of all its employees. Employees have the right to express their views through appropriate informal and formal processes.

a) Informal Process

The Board encourages employees to discuss their grievances and complaints through informal meetings with their supervisor or Principal, or other administrator with authority to address the grievance or complaint. Grievances and complaints should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

b) Complaint Procedures

The Superintendent or designee shall develop a detailed employee grievance/complaint process; this grievance/complaint process shall recognize the Board's final authority to hear or decide employee grievances or complaints. The grievance/complaint process shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or "mini-trial" at any level.

The Superintendent or designee shall ensure that the detailed employee grievance/complaint process is made available to employees through the Employee Handbook.

c) Board Consideration of Employee Complaints and Grievances

The Board shall retain final authority to hear or decide employee grievances/complaints. *19 TAC 100.1033(b)(14)(C)(i)*.

The Board may conduct a closed meeting when hearing or deciding an employee grievance/complaint as allowed by applicable law. *Gov't Code Ch. 551, Subch. D*.

d) Freedom from Retaliation

Neither the Board nor any Moody Early Childhood Center employee shall unlawfully retaliate against an employee for bringing a grievance or complaint.

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**POLICY GROUP 4 – PERSONNEL
VACATION AND SICK LEAVE**

PG-4.25

SEC. 1. PERSONAL LEAVE

Moody Early Childhood Center does not directly participate in the State Personal Leave Program or provide or recognize “State Days” under Education Code, Chapter 22; therefore, accumulated state personal leave days from other Texas School Districts or public schools may not be transferred in or out of the Moody Early Childhood Center system.

a) Local Leave

Moody Early Childhood Center grants all employees no less than 13 local leave days annually. The Executive Director shall adopt procedures to implement and control Local Leave benefits.

b) Medical Certification

Any employee who is absent more than three days because of a personal or family illness must submit a medical certification from a qualified health care provider confirming the specific dates of the illness, the reason for the illness, and – in the case of personal illness – the employee’s fitness to return to work.

c) Forfeiture of Leave

Local Leave does not accumulate or roll forward from year to year, and is forfeited upon resignation, retirement, or termination from employment.

SEC. 2. SHORT TERM DISABILITY LEAVE

Moody Early Childhood Center shall also provide all employees who have worked for Moody Early Childhood Center for at least one school year short term disability leave. This leave may only be used if an employee has exhausted his or her earned Local Leave benefits and only for the employee’s personal illness or disability, including pregnancy-related disability.

Short term disability leave is to be used for single, long-term illnesses or conditions. “Single” is defined as one illness or condition; “long-term” is defined as an absence of ten or more consecutive days. An employee is eligible for extended sick leave once every three years.

A doctor’s written statement confirming the need for extended sick leave shall be required before leave is granted, and periodically thereafter as determined by Moody Early Childhood Center. Extended sick leave will stop on the date the doctor releases the employee or when all extended sick leave has been exhausted, whichever comes first.

The Executive Director shall adopt procedures to implement and control Short Term Disability Leave benefits.

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MANUAL**

**POLICY GROUP 4 – PERSONNEL
VACATION AND SICK LEAVE**

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SEC. 3. EMERGENCY LEAVE

Employees may be granted days of emergency leave without loss of pay or accumulated Local Leave for destruction of their home or domicile due to flood, fire, or storm, other natural disasters or force majeure. Such leave is subject to the approval of the Superintendent or designee. Any further leave granted will result in a deduction of accumulated Local Leave, a deduction of the daily rate of pay, or unpaid leave, unless otherwise provided by Moody Early Childhood Center.

SEC. 4. BEREAVEMENT LEAVE

Moody Early Childhood Center employees may be absent, without loss of pay, in the event of the death of one of the following relatives of the employee or his or her spouse: husband, wife, child (including a biological, adopted, stepchild, a child for whom the employee stands in loco parentis, or foster child), father, mother, brother, sister, grandfather, grandmother, grandchildren, or any person who may be residing in the employee's household at the time of illness or death. No more than 3 paid local leave days will be used for this purpose in any one school year unless otherwise approved by the Superintendent or designee.

SEC. 5. RELIGIOUS OBSERVANCES

An employee requesting to attend a religious observance on a regularly scheduled school day may use Personal Leave. In the event that all Personal Leave has been used, deductions from the employee's salary shall be made on the basis of the employee's daily rate of pay.

SEC. 6. JURY DUTY AND OTHER COURT APPEARANCES

Moody Early Childhood Center will pay a non-exempt employee his or her normal daily compensation for each regularly scheduled workday on which the employee serves in any phase of jury service. Any employee selected for jury duty must notify his or her supervisor within 48 hours of the court's notice. The employee must also present documentation of jury service to his or her supervisor.

Employees will be paid while on leave to comply with a valid subpoena to appear in a civil, criminal, legislative, or administrative proceeding. Absences for court appearances related to an employee's personal business must be taken as local leave or leave without pay (if no local leave is available). Employees may be required to submit documentation of their need for leave for court appearances.

Moody Early Childhood Center shall not discharge, threaten to discharge, intimidate, or coerce any permanent employee because the employee serves as a juror or grand juror, or for the employee's attendance or scheduled attendance in connection with the service, in any court in the United States.

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MANUAL**

**POLICY GROUP 4 – PERSONNEL
VACATION AND SICK LEAVE**

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SEC. 7. VOTING LEAVE

Any employee who does not have two consecutive non-work hours while the polls are open on election day will be given up to two hours off with pay in order to vote, unless more time is required by state law. The employee should notify the appropriate supervisor before Election Day if time off is needed, so that the timing of the employee's absence can be pre-arranged.

Sec. 8 PEACE OFFICER PAID QUARANTINE LEAVE

Pursuant to Local Government Code 180.008, peace officers employed by or appointed by Moody Early Childhood Center receive full pay and benefits when ordered to quarantine or isolate due to a possible or known exposure to a communicable disease while on duty. During this Paid Quarantine Leave, a peace officer will receive all employment benefits and compensation, including leave accrual, pension benefits, and health benefit plan benefits for the duration of the leave. Peace officers will also receive reimbursement for reasonable costs related to the quarantine, including lodging, medical, and transportation. Paid Quarantine Leave will be ordered by the peace officer's supervisor or the applicable health authority.

A peace officer's sick leave balance, vacation leave balance, holiday leave balance, or other paid leave balance will not be reduced in connection with Paid Quarantine Leave taken in accordance with this Sec. 8.

Sec. 9 LIMITATIONS ON LEAVES OF ABSENCE

With the exception of leaves of absence for military duty, peace officer leave, or approved leave under the Family and Medical Leave Act, if an employee accumulates more than three days of absence after exhausting all available paid and unpaid leave, the employee shall be separated due to unavailability for work, subject to any reasonable accommodation duties Moody Early Childhood Center may have under the Americans with Disabilities Act (ADA) or similar law. Any employee separated for unavailability for work following exhaustion of all available leave will be eligible for rehire, and will be able to apply for any vacancies that may exist at any given time, depending upon qualifications and availability of job openings.

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POLICY GROUP 4 – PERSONNEL
MILITARY LEAVE – FEDERAL LAW

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SEC. 1. EMPLOYEE MILITARY LEAVE

Any Moody Early Childhood Center employee who is absent from employment due to voluntary or involuntary service in the uniformed services is entitled to certain rights and benefits under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) if:

1. The employee (or an appropriate officer of the uniformed service in which the employee serves) has provided written or verbal notice of such military notice to Moody Early Childhood Center (unless notice cannot be given because of military necessity or is unreasonable or impossible to provide);
2. The cumulative length of the absence and all previous absences from employment with Moody Early Childhood Center does not exceed five years; and
3. The employee reports to or submits an application for reemployment to Moody Early Childhood Center and applies with all other applicable requirements.

For purposes of leave under USERRA, “uniformed service” means the Armed Forces; the Army National Guard, and the Air National Guard when an individual is engaged in active duty for training, inactive duty training, or full-time National Guard duty; the commissioned corps of the Public Health Services; and any other category of persons designated by the President of the United States in time of war or emergency.

A person who is re-employed by Moody Early Childhood Center under USERRA is entitled to the seniority and other rights and benefits that he or she held on the date that uniformed service commenced, plus the additional seniority, rights, and benefits that would have been attained had he or she remained continuously employed.

Sec. 4.15.1.1. Exception

Moody Early Childhood Center is not required to re-employ an employee if:

1. Circumstances at Moody Early Childhood Center have changed so as to make re-employment impossible or unreasonable;
2. The re-employment of the employee would cause undue hardship for Moody Early Childhood Center;
3. The employment with Moody Early Childhood Center from which the employee leaves to perform uniformed service is for a brief, nonrecurrent period and there is no reasonable expectation that employment with Moody Early Childhood Center will continue indefinitely or for a significant period; or
4. The employee is separated from uniformed service with a dishonorable or bad conduct discharge, under other than honorable conditions, or in other circumstances outlined in federal regulation at 20 C.F.R. § 1002.135.

38 U.S.C. 4301, et. seq.

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SEC. 1. GENERAL PROVISIONS

a) Family and Medical Leave

The Family and Medical Leave Act (“FMLA”) provides eligible employees with unpaid leave for certain family and medical reasons during a 12-month period. During this leave, employees are entitled to continue group health plan coverage as if they had continued to work. At the conclusion of the leave, subject to some exceptions, employees generally have the right to return to the same or an equivalent position, equivalent pay, benefits and working conditions.

b) Employment Eligibility Criteria

An “eligible employee” is one who:

1. Has been employed by Moody Early Childhood Center for at least 12 months (which need not be consecutive);
2. Has been employed by Moody Early Childhood Center for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave; and
3. Works at a Moody Early Childhood Center facility where at least 50 employees are employed within 75 miles.

i. Events Entitling Employees to FMLA Leave

An eligible employee shall be entitled to FMLA leave for one or more of the following:

1. For the birth of a son or daughter of the employee and to care for the newborn child.
2. For placement of a son or daughter with the employee for adoption or foster care.
3. To care for the employee’s spouse, son or daughter, or parent with a serious health condition.
4. Because of a serious health condition that makes the employee unable to perform the functions of his or her position.
5. Because of any Qualified Exigency (defined below) arising out of the fact that the employee’s spouse, son or daughter, or parent is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.
6. To care for a covered servicemember with a serious injury or illness incurred in the line of duty if the employee is the spouse, son, daughter, parent, or next of kin of the servicemember.

ii. Qualifying Exigency FMLA Leave

An eligible employee may take FMLA leave for one or more of the following qualifying exigencies:

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1. Short-notice deployment.
2. Military events and related activities.
3. Childcare and school activities.
4. Financial and legal arrangements.
5. Counseling.
6. Rest and recuperation.
7. Post-deployment activities.
8. Parental care.
9. Additional activities, provided that Moody Early Childhood Center and the employee agree that the leave shall qualify as an exigency and agree to both the timing and duration.

iii. Pregnancy or Birth

Both parents are entitled to FMLA leave to be with a healthy newborn child (i.e., bonding time) during the 12-month period beginning on the date of birth. In addition, the expectant mother is entitled to FMLA leave for incapacity due to pregnancy, for prenatal care, or for her own serious health condition following the birth of the child. The expectant mother is entitled to leave for incapacity due to pregnancy even though she does not receive treatment from a health-care provider during the absence and even if the absence does not last for more than three consecutive calendar days. A spouse is entitled to FMLA leave if needed to care for a pregnant spouse who is incapacitated, during her prenatal care, or following the birth of a child if the spouse has a serious health condition.

SEC. 2. SECTION II: LEAVE ENTITLEMENT AND USE

a) Maximum Amount of FMLA Leave Within a 12-Month Period

Except in the case of military caregiver leave, an eligible employee's FMLA leave entitlement is limited to a total of 12 workweeks of leave during a 12-month period for any one or more of the qualifying reasons.

Spouses who are employed by Moody Early Childhood Center may be limited to a combined total of 12 workweeks of leave during any 12-month period if the leave is taken for birth of a son or daughter, the placement of a child for adoption or foster care, or to care for a parent with a serious health condition. Each spouse may be entitled to additional FMLA leave for other FMLA-qualifying reasons, but not more than a total of 12 workweeks per person.

b) Determining the 12-Month Period

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Except with respect to military caregiver leave, Moody Early Childhood Center may choose any one of the following methods for determining the “12-month period” in which the 12 weeks of leave entitlement occurs:

1. The calendar year;
2. Any fixed 12-month “leave year,” such as a fiscal year or a year starting on an employee’s “anniversary date”;
3. The 12-month period measured forward from the date any employee’s first FMLA leave begins; or
4. A “rolling” 12-month period measured backward from the date an employee uses any FMLA leave.

i. Military Caregiver Leave

In the case of military caregiver leave, an eligible employee’s FMLA leave entitlement is limited to a total of 26 workweeks of leave during a “single 12-month period.” The “single 12-month period” is measured forward from the date an employee’s first FMLA leave to care for the covered servicemember begins, regardless of the method used by Moody Early Childhood Center to determine the 12-month period for other FMLA leaves. During the “single 12-month period,” an eligible employee’s FMLA leave entitlement is limited to a combined total of 26 workweeks of FMLA leave for any qualifying reason.

Spouses who are employed by Moody Early Childhood Center may be limited to a combined total of 26 weeks of FMLA leave during the “single 12-month period” if leave is taken as military caregiver leave, for the birth of a son or daughter, for the placement of a child for adoption or foster care, or to care for a parent with a serious health condition.

ii. Summer Vacation and Other Extended Breaks

If Moody Early Childhood Center’s activity temporarily ceases and employees generally are not expected to report for work for one or more weeks – e.g., a school closing for Spring Break or for the Christmas/New Year holiday – those days do not count against an employee’s FMLA leave entitlement. Similarly, the time during summer vacation when the employee is not required to report to work does not count against the employee’s FMLA leave entitlement.

c) Intermittent or Reduced Work Schedule Leave

FMLA leave may be taken intermittently or on a reduced leave schedule under certain circumstances. “Intermittent leave” is FMLA leave taken in separate blocks of time due to a single qualifying reason. A “reduced leave schedule” is a leave schedule that reduces an employee’s usual number of working hours per workweek, or hours per workday.

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For leave taken because of the employee’s own serious health condition, to care for a parent, son, or daughter with a serious health condition, or military caregiver leave, there must be a medical need for leave, and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. Leave due to a qualifying exigency may also be taken on an intermittent or reduced schedule basis.

When leave is taken after the birth of a healthy child or placement of a healthy child for adoption or foster care, an employee may take leave intermittently, or on a reduced leave schedule, only if Moody Early Childhood Center agrees.

i. Transfer to an Alternative Position

If an employee requests intermittent or reduced schedule leave that is foreseeable based on planned medical treatment, Moody Early Childhood Center may require the employee to transfer temporarily to an available alternative position for which the employee is qualified, and which better accommodates recurring periods of leave than does the employee’s regular position.

ii. Calculating Leave Use

When an employee takes leave on an intermittent or reduced schedule, only the amount of leave actually taken may be counted toward the employee's leave entitlement. Moody Early Childhood Center must account for intermittent or reduced schedule leave using an increment no greater than the shortest period of time that Moody Early Childhood Center uses to account for use of other forms of leave, provided the increment is not greater than one hour.

d) Special Rules for Instructional Employees

Special rules affect leave taken intermittently or on a reduced schedule, or taken near the end of an academic term (semester) by instructional employees.

“Instructional employees” are those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. It does not include teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include auxiliary personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.

i. Failure to Provide Notice of Foreseeable Leave

If an instructional employee does not give required notice of foreseeable leave to be taken intermittently or on a reduced schedule, Moody Early Childhood Center may require the employee to take leave of a particular duration or to transfer temporarily to an alternative

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position. Alternatively, Moody Early Childhood Center may require the employee to delay the taking of leave until the notice provision is met.

ii. Twenty Percent Rule

If an eligible instructional employee needs intermittent leave or leave on a reduced leave schedule to care for a family member with a serious health condition, to care for a covered servicemember, or for the employee's own serious health condition; the leave is foreseeable based on planned medical treatment; and the employee would be on leave for more than 20% of the total number of working days over the period the leave would extend, Moody Early Childhood Center may require the employee to choose:

1. To take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
2. To transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.

“Periods of a particular duration” means a block or blocks of time beginning no earlier than the first day for which leave is needed and ending no later than the last day on which leave is needed, and may include one uninterrupted period of leave. If an employee chooses to take leave for “periods of a particular duration” in the case of intermittent or reduced schedule leave, the entire period of leave taken will count as FMLA leave.

iii. Leave at the End of a Semester

As a rule, Moody Early Childhood Center may not require an employee to take more FMLA leave than the employee needs. The FMLA recognizes exceptions where instructional employees begin leave near the end of a semester. As set forth below, Moody Early Childhood Center may in certain cases require the employee to take leave until the end of the semester.

The school semester, or “academic term,” typically ends near the end of the calendar year and the end of spring each school year. In no case may Moody Early Childhood Center have more than two academic terms or semesters each year for purposes of the FMLA.

If Moody Early Childhood Center requires the employee to take leave until the end of the semester, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. Any additional leave required by Moody Early Childhood Center to the end of the semester is not counted as FMLA leave; however, Moody Early Childhood Center shall maintain the employee's group health insurance and restore the employee to the same or equivalent job, including other benefits, at the end of the leave.

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iv. More than Five Weeks Before the End of the Semester

Moody Early Childhood Center may require an instructional employee to continue taking leave until the end of the semester if:

1. The employee begins leave more than five weeks before the end of the semester;
2. The leave will last at least three weeks; and
3. The employee would return to work during the three-week period before the end of the semester.

v. During the Last Five Weeks of the Semester

Moody Early Childhood Center may require an instructional employee to continue taking leave until the end of the semester if:

1. The employee begins leave during the last five weeks of the semester for any reason other than the employee's own serious health condition or a qualifying exigency;
2. The leave will last more than two weeks; and
3. The employee would return to work during the two-week period before the end of the semester.

vi. During Last Three Weeks of the Semester

Moody Early Childhood Center may require an instructional employee to continue taking leave until the end of the semester if the employee begins leave during the three-week period before the end of the semester for any reason other than the employee's own serious health condition or a qualifying exigency.

e) Substitution of Paid Leave Time

Generally, FMLA leave is unpaid leave. However, an employee may choose to substitute accrued paid leave for unpaid FMLA leave. If an employee does not choose to substitute accrued paid leave, Moody Early Childhood Center may require the employee to do so. The term "substitute" means that the paid leave provided by Moody Early Childhood Center, and accrued pursuant to established policies of Moody Early Childhood Center, will run concurrently with the unpaid FMLA leave. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of Moody Early Childhood Center normal leave policy.

i. FMLA and Workers' Compensation

A serious health condition may result from injury to the employee "on or off" the job. If Moody Early Childhood Center designates the leave as FMLA leave, the leave counts against the employee's FMLA leave entitlement. Because the workers' compensation absence is not unpaid,

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neither the employee nor Moody Early Childhood Center may require the substitution of paid leave. However, Moody Early Childhood Center and an employee may agree, where state law permits, to have paid leave supplement workers' compensation benefits.

If the health-care provider treating the employee for the workers' compensation injury certifies that the employee is able to return to a "light duty job" but is unable to return to the same or equivalent job, the employee may decline Moody Early Childhood Center's offer of a "light duty job." As a result, the employee may lose workers' compensation payments, but is entitled to remain on unpaid FMLA leave until the employee's FMLA leave entitlement is exhausted. As of the date workers' compensation benefits cease, the substitution provision becomes applicable and either the employee may elect or Moody Early Childhood Center may require the use of accrued paid leave.

f) Maintenance of Health Benefits

During any FMLA leave, Moody Early Childhood Center must maintain the employee's coverage under any group health plan on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period.

An employee may choose not to retain group health plan coverage during FMLA leave. However, when the employee returns from leave, the employee is entitled to be reinstated on the same terms as before taking leave without any qualifying period, physical examination, exclusion of pre-existing conditions, and the like.

i. Payment of Premiums

During FMLA leave, the employee must continue to pay his or her share of group health plan premiums. If premiums are raised or lowered, the employee would be required to pay the new premium rates.

ii. Failure to Pay Premiums

Unless Moody Early Childhood Center has an established policy providing a longer grace period, Moody Early Childhood Center obligations to maintain health insurance coverage cease if an employee's premium payment is more than 30 days late. In order to terminate the employee's coverage, Moody Early Childhood Center must provide written notice to the employee that the payment has not been received. Such notice must be mailed to the employee at least 15 days before coverage is to cease, advising that coverage will be dropped on a specified date at least 15 days after the date of the letter unless the payment has been received by that date. Coverage for the employee may be terminated at the end of the 30-day grace period, if the required 15-day notice has been provided.

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Upon the employee's return from FMLA leave, Moody Early Childhood Center must still restore the employee to coverage/benefits equivalent to those the employee would have had if leave had not been taken and the premium payment(s) had not been missed. The employee may not be required to meet any qualification requirements imposed by the plan, including any new preexisting condition waiting period, to wait for an open season, or to pass a medical examination to obtain reinstatement of coverage.

iii. Recovery of Benefit Cost

If an employee fails to return to work after FMLA leave has been exhausted or expires, Moody Early Childhood Center may recover from the employee its share of health plan premiums during the employee's unpaid FMLA leave, unless the employee's failure to return is due to one of the reasons set forth in the regulations. Moody Early Childhood Center may not recover its share of health insurance premiums for any period of FMLA leave covered by paid leave.

g) Right to Reinstatement

On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when leave began, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to reinstatement even if the employee has been replaced or his or her position has been restructured to accommodate the employee's absence. However, an employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period.

i. Moonlighting During FMLA Leave

The Superintendent and/or designee may develop a uniformly applied policy governing outside or supplemental employment during FMLA leave. If the Superintendent/and or designee does not develop such a policy, Moody Early Childhood Center may not deny FMLA benefits on the basis of outside or supplemental employment unless the FMLA leave was fraudulently obtained.

ii. Reinstatement

The Superintendent and/or designee shall develop a policy governing the determination of how an employee is to be restored to "an equivalent position" upon return from FMLA leave. Such a policy must be in writing, must be made known to the employee before the taking of FMLA leave, must clearly explain the employee's restoration rights upon return from leave, and must provide substantially the same protections as provided in the FMLA.

iii. Pay Increases and Bonuses

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An employee is entitled to any unconditional pay increases that may have occurred during the FMLA leave period, such as cost of living increases. Pay increases conditioned upon seniority, length of service, or work performed must be granted in accordance with Moody Early Childhood Center policy or practice with respect to other employees on an equivalent leave status for a reason that does not qualify as FMLA leave.

Equivalent pay includes any bonus or payment, whether it is discretionary or non-discretionary. However, if a bonus or other payment is based on the achievement of a specified goal such as hours worked, products sold, or perfect attendance, and the employee has not met the goal due to FMLA leave, then the payment may be denied, unless otherwise paid to employees on an equivalent leave status for a reason that does not qualify as FMLA leave. For example, if an employee who used paid vacation leave for a non-FMLA purpose would receive the payment, then an employee who used paid vacation leave for an FMLA-protected purpose also must receive the payment.

iv. Key Employees

Moody Early Childhood Center may deny job restoration to a key employee, as that term is defined in law, if such denial is necessary to prevent substantial and grievous economic injury to the operations of Moody Early Childhood Center.

SEC. 3. NOTICES AND MEDICAL CERTIFICATION

a) Required Notices

The Superintendent shall ensure that a notice explaining the FMLA and containing information regarding the procedures for filing complaints with the Department of Labor's Wage and Hour Division is posted prominently at each campus where it is readily visible to employees and applicants for employment. The Superintendent shall also ensure that such notice is included in Moody Early Childhood Center's Employee Handbook and distributed to each new employee upon hiring.

If a significant portion of Moody Early Childhood Center's workforce is not literate in English, the Superintendent shall provide the general notice in a language in which the employees are literate.

The Superintendent may use Department of Labor form WHD 1420 or another form of notice, so long as the notice includes, at a minimum, all of the information contained in form WHD 1420.

i. Eligibility Notice

When an employee requests FMLA leave, or when Moody Early Childhood Center learns that an employee's leave may be for an FMLA-qualifying reason, the employee's immediate supervisor

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shall notify the employee of his or her eligibility to take FMLA leave. For purposes of this policy, the immediate supervisor of a teacher and assistant principal shall be the Principal. If the employee is not eligible for FMLA leave, the notice must explain why the employee is not eligible.

The employee's immediate supervisor shall provide the eligibility notice within five business days, absent extenuating circumstances. Moody Early Childhood Center shall translate the notice in any situation in which it is required to translate the general notice.

ii. Rights and Responsibilities Notice

Moody Early Childhood Center shall provide a written notice of rights and responsibilities each time an eligibility notice is provided to an employee. This notice must include the information required by 29 CFR 825.300(c)(1). The notice may be distributed electronically if it meets the other requirements of this section. Moody Early Childhood Center shall translate the notice in any situation in which it is required to translate the general notice.

iii. Designation Notice

When Moody Early Childhood Center has enough information to determine whether leave is being taken for an FMLA-qualifying reason, Moody Early Childhood Center must notify the employee whether the leave will be designated as FMLA leave. If Moody Early Childhood Center determines that the leave will not be designated as FMLA-qualifying, Moody Early Childhood Center must notify the employee of that determination. Absent extenuating circumstances, the designation notice must be provided within five business days. The notice must include the information required by 29 CFR 825.300(d)(1), (d)(3), and (d)(6). Moody Early Childhood Center shall translate the notice in any situation in which it is required to translate the general notice.

iv. Retroactive Designation

Moody Early Childhood Center may retroactively designate leave as FMLA leave, with appropriate notice to the employee, if Moody Early Childhood Center's failure to timely designate leave does not cause harm or injury to the employee. Moody Early Childhood Center and an employee may also agree that leave will retroactively be designated as FMLA leave.

b) Requests for FMLA Leave

An employee giving notice of the need for FMLA leave must state a qualifying reason for the leave and otherwise satisfy the requirements for notice of foreseeable and unforeseeable leave, as described below. The employee need not expressly assert rights under the Act or even mention the FMLA.

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Employees should request FMLA leave by notifying the Director of Human Resources or designee, and must complete the Department of Labor’s form WH-380-E (or WH-380-F as appropriate) made available from the Department of Labor or Moody Early Childhood Center’s administrative offices. Completed forms should be returned to the Business Department.

i. Foreseeable Leave

An employee must provide his or her immediate supervisor at least 30 days’ advance notice before FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, planned medical treatment for a serious health condition of the employee or of a family member, or the planned medical treatment for a serious injury or illness of a covered service member. If 30 days’ notice is not practicable, the employee must give notice as soon as practicable, generally on the same day as or next business day after the reason for the leave is known. For leave due to a qualifying exigency, the employee must provide notice as soon as practicable regardless of how far in advance the leave is foreseeable.

When planning medical treatment, the employee must consult with his or her immediate supervisor and make a reasonable effort to schedule the treatment so as not to disrupt unduly Moody Early Childhood Center operations, subject to the approval of the health-care provider.

ii. Unforeseeable Leave

When the approximate timing of leave is not foreseeable, an employee must provide notice to his or her immediate supervisor as soon as practicable under the facts and circumstances of the particular case. If an employee does not comply with usual notice and procedural requirements, and no unusual circumstances justify the failure to comply, FMLA leave may be delayed or denied.

iii. Compliance with Moody Early Childhood Center Requirements

Moody Early Childhood Center may require an employee to comply with its usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances. If an employee does not comply with usual notice and procedural requirements, and no unusual circumstances justify the failure to comply, FMLA leave may be delayed or denied.

c) Certification of Leave

Moody Early Childhood Center may require that an employee’s FMLA leave be supported by certification, as described below. Moody Early Childhood Center shall give notice of a requirement for certification each time certification is required. At the time Moody Early Childhood Center requests certification, Moody Early Childhood Center must advise the employee of the consequences of failure to provide adequate certification.

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i. Timing

In most cases, the employee’s immediate supervisor will request certification at the time the employee gives notice of the need for leave or within five business days thereafter or, in the case of unforeseen leave, within five business days after the leave commences. Moody Early Childhood Center may request certification at a later date if Moody Early Childhood Center later has reason to question the appropriateness of the leave or its duration. The employee must provide the requested certification to his or her immediate supervisor within 15 calendar days after Moody Early Childhood Center’s request, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

ii. Incomplete or Insufficient Certification

Moody Early Childhood Center shall advise an employee if it finds a certification incomplete or insufficient and shall state in writing what additional information is necessary to make the certification complete and sufficient. Moody Early Childhood Center must provide the employee with seven calendar days (unless not practicable under the particular circumstances despite the employee's diligent, good faith efforts) to cure any such deficiency.

A certification is “incomplete” if one or more of the applicable entries have not been completed. A certification is “insufficient” if it is complete, but the information provided is vague, ambiguous, or non-responsive. A certification that is not returned to Moody Early Childhood Center is not considered incomplete or insufficient, but constitutes a failure to provide certification.

iii. Medical Certification of Serious Health Condition

When leave is taken because of an employee's own serious health condition, or the serious health condition of a family member, Moody Early Childhood Center may require the employee to obtain medical certification from a health-care provider. Moody Early Childhood Center may use the U.S. Department of Labor (“DOL”) optional form WH-380-E when the employee needs leave due to the employee’s own serious health condition and optional form WH-380-F when the employee needs leave to care for a family member with a serious health condition. Moody Early Childhood Center may not require information beyond that specified in the FMLA regulations.

An employee may choose to comply with the certification requirement by providing Moody Early Childhood Center with an authorization, release, or waiver allowing Moody Early Childhood Center to communicate directly with the health-care provider.

For the definition of “health-care provider,” see 29 CFR 825.125.

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When requesting medical certification, Moody Early Childhood Center shall comply with all requirements for requesting medical information under the Genetic Information Nondiscrimination Act (“GINA”) as contained in 29 CFR 1635.8(b)(1)(i)(A).

v. *Authentication and Clarification*

If an employee submits a complete and sufficient certification signed by the health-care provider, Moody Early Childhood Center may not request additional information from the health-care provider. However, Moody Early Childhood Center may contact the health-care provider for purposes of clarification and authentication of the certification after Moody Early Childhood Center has given the employee an opportunity to cure any deficiencies, as set forth above. To make such contact, Moody Early Childhood Center must use a health-care provider, a human resources professional, a leave administrator, or a management official. Under no circumstances may the employee's direct supervisor contact the employee's health-care provider.

“Authentication” means providing the health-care provider with a copy of the certification and requesting verification that the information on the form was completed and/or authorized by the health-care provider who signed the document; no additional medical information may be requested.

“Clarification” means contacting the health-care provider to understand the handwriting on the certification or to understand the meaning of a response. Moody Early Childhood Center may not ask the health-care provider for additional information beyond that required by the certification form. The requirements of the Health Insurance Portability and Accountability Act (“HIPAA”) Privacy Rule must be satisfied when individually identifiable health information of an employee is shared with Moody Early Childhood Center by a HIPAA-covered health-care provider.

vi. *Second and Third Opinions*

If Moody Early Childhood Center has reason to doubt the validity of a medical certification, Moody Early Childhood Center may require the employee to obtain a second opinion at Moody Early Childhood Center's expense. If the opinions of the employee's and Moody Early Childhood Center's designated health-care providers differ, Moody Early Childhood Center may require the employee to obtain certification from a third health-care provider, again at Moody Early Childhood Center's expense.

vii. *Foreign Medical Certification*

If the employee or a family member is visiting another country, or a family member resides in another country, and a serious health condition develops, Moody Early Childhood Center shall accept medical certification as well as second and third opinions from a health-care provider who practices in that country. If the certification is in a language other than English, the employee

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must provide Moody Early Childhood Center with a written translation of the certification upon request.

viii. Recertification

Moody Early Childhood Center may request recertification no more often than every 30 days and only in connection with an absence by the employee, except as set forth in the FMLA regulations. Moody Early Childhood Center must allow at least 15 calendar days for the employee to provide recertification.

As part of the recertification for leave taken because of a serious health condition, Moody Early Childhood Center may provide the health-care provider with a record of the employee's absence pattern and ask the health-care provider if the serious health condition and need for leave is consistent with such a pattern.

ix. Certification—Qualifying Exigency Leave

The first time an employee requests leave because of a qualifying exigency, Moody Early Childhood Center may require the employee to provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates of the covered military member's active duty service.

Moody Early Childhood Center may also require that the leave be supported by a certification that addresses the information at 29 CFR 825.309(b). Moody Early Childhood Center may use DOL optional form WH-384, or another form containing the same basic information, for this certification. Moody Early Childhood Center may not require information beyond that specified in the regulations.

x. Certification—Military Caregiver Leave

When an employee takes military caregiver leave, Moody Early Childhood Center may require the employee to obtain a certification completed by an authorized health-care provider of the covered servicemember. In addition, Moody Early Childhood Center may request that the employee and/or covered servicemember address in the certification the information at 29 CFR 825.310(c). Moody Early Childhood Center may also require the employee to provide confirmation of a covered family relationship to the seriously injured or ill servicemember.

Moody Early Childhood Center may use DOL optional form WH-385, or another form containing the same basic information, for this certification. Moody Early Childhood Center may not require information beyond that specified in the regulations. Moody Early Childhood Center must accept as sufficient certification "invitational travel orders" ("ITOs") or "invitational travel

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authorizations” (“ITAs”) issued to any family member to join an injured or ill servicemember at his or her bedside.

Moody Early Childhood Center may seek authentication and/or clarification of the certification under the procedures described above. Second and third opinions, and recertifications, are not permitted for leave to care for a covered servicemember.

d) Intent to Return to Work

The Superintendent may develop a uniformly applied policy or practice that requires an employee on FMLA leave to report periodically on the employee’s status and intent to return to work. Such a policy may not be discriminatory and must take into account all of the relevant facts and circumstances related to the individual employee’s leave situation.

i. Fitness for Duty Certification

The Superintendent may develop a uniformly applied policy or practice that requires all similarly situated employees (i.e., same occupation, same serious health condition) who take leave for such conditions to obtain and present certification from the employee's health-care provider that the employee is able to resume work. The Superintendent may require that the certification specifically address the employee's ability to perform the essential functions of the employee's job.

ii. Failure to Provide Certification

If the employee fails to provide Moody Early Childhood Center a complete and sufficient certification, despite the opportunity to cure, or fails to provide any certification, Moody Early Childhood Center may deny the taking of FMLA leave. This provision applies in any case where Moody Early Childhood Center requests a certification, including any clarifications necessary to determine if certifications are authentic and sufficient.

SEC. 4. MISCELLANEOUS PROVISIONS

a) Record Maintenance

The Superintendent and/or designee shall make, keep, and preserve records pertaining to its obligations under the FMLA in accordance with the recordkeeping requirements of the Fair Labor Standards Act (“FLSA”) and the FMLA regulations. Moody Early Childhood Center shall keep these records for no less than three years and make them available for inspection, copying, and transcription by representatives of the Department of Labor upon request. Such records may be kept in computer form, so long as they are made available for transcription or copying.

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If the GINA is applicable, records and documents created for purposes of FMLA leave that contain family medical history or genetic information shall be maintained in accordance with the confidentiality requirements of GINA, which permit such information to be disclosed consistent with the requirements of the FMLA. If the Americans with Disabilities Act (“ADA”) is also applicable, such records shall be maintained in conformance with ADA confidentiality requirements, except as excepted by the FMLA.

b) Prohibition Against Discrimination and Retaliation

Moody Early Childhood Center shall not interfere with an employee’s rights under the FMLA, or with legal proceedings or inquiries relating to an employee’s rights. Specifically, Moody Early Childhood Center shall not:

1. Interfere with, restrain, or deny the exercise of (or attempts to exercise) any rights provided by the FMLA.
2. Discharge or in any other way discriminate against any person (whether or not an employee) for opposing or complaining about any unlawful practice under the FMLA.
3. Discharge or in any other way discriminate against any person (whether or not an employee) because that person has:
 - a. Filed any charge, or has instituted (or caused to be institute) any proceeding under or related to the FMLA;
 - b. Given, or is about to give, any information in connection with an inquiry or proceeding relating to a right under the FMLA; and/or
 - c. Testified, or is about to testify, in any inquiry or proceeding relating to a right under the FMLA.

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SEC. 4.28.1. INTRODUCTION

It is the policy of **Moody Early Childhood Center** to:

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

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

SEC. 4.28.3. INTERNET SAFETY, COMPLIANCE WITH THE REQUIREMENTS OF CIPA

Sec. 4.28.3.1. Technology Protection Measures

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

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A Technology Protection Measure is a specific technology that blocks or filters Internet access.² It must protect against access by adults and minors to visual depictions that are obscene, involve child pornography, or are harmful to minors. **Moody Early Childhood Center** utilizes a sophisticated content filtering system that is compliant with CIPA and NCIPA on all computers that access the Internet.

Sec. 4.28.3.1. Access to Inappropriate Material

To the extent practical, Technology Protection Measures (or “Internet filters”) shall be used to block or filter Internet, or other forms of electronic communication, access to inappropriate information. Specifically, as required by CIPA, blocking shall be applied to visual and textual depictions of material deemed obscene or child pornography, or to any material deemed harmful to minors. Subject to administrative approval, technology protection measures may be disabled or, in the case of minors, minimalized only for bona fide research or other lawful purposes.

Any attempt to bypass, defeat, or circumvent the Technology Prevention Measures is punishable as a violating of this policy and of the Acceptable Use Policies.

Sec. 4.28.3.1. Inappropriate Network Usage

To the extent practical, steps shall be taken to promote the safety and security of users of **Moody Early Childhood Center**’s online computer network when using electronic mail, chat rooms, blogging, instant messaging, online discussions and other forms of direct electronic communications. Without limiting the foregoing, access to such means of communication is strictly limited by the Acceptable Use Policies.

Specifically, as required by CIPA, prevention of inappropriate network usage includes:

² As defined by CIPA, the term “technology protection measure” means a specific technology that blocks or filters Internet access to visual depictions that are:

1. Obscene, as that term is defined in section 1460 of title 18, United States Code;
2. Child Pornography, as that term is defined in section 2256 of title 18, United States Code; or
3. Harmful to minors.

The term “harmful to minors” means any picture, image, graphic image file, or other visual depiction that:

1. Taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;
2. Depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and
3. Taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

The terms “sexual act” and “sexual contact” have the meanings given such terms in section 2256 of title 18, United States Code.

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1. unauthorized access, including so-called “hacking” and other unlawful activities; and
2. unauthorized disclosure, use, and dissemination of personal identification information regarding minors.

Sec. 4.28.3.1. Supervision and Monitoring

It shall be the responsibility of all professional employees (pedagogical and administrative staff) to supervise and monitor usage of **Moody Early Childhood Center**’s computers, computer network and access to the Internet in accordance with this policy, the Acceptable Use Policies, and CIPA. Procedures for the disabling or otherwise modifying any technology protection measures shall be the responsibility of each Principal or designee.

Sec. 4.28.3.1. Education

Moody Early Childhood Center will advocate and education employees, students, parents and **Moody Early Childhood Center** community on Internet safety and “cyber-bullying.” Education will be provided through such means as professional development training and materials to employees, PTO/PTA presentations, and the **Moody Early Childhood Center** website.

Additionally, the Principal or designee will provide age-appropriate training for students who use **Moody Early Childhood Center**’s Internet facilities. The training provided will be designed to promote **Moody Early Childhood Center**’s commitment to:

1. The standards and acceptable use of Internet services as set forth in the Acceptable Use Policies.
2. Student safety with regard to:
 - a. safety on the Internet;
 - b. appropriate behavior while online, on social networking Web sites, and in chat rooms; and
 - c. cyberbullying awareness and response.
3. Compliance with the E-rate requirements of CIPA.

Following receipt of this training, the student will acknowledge that he/she has received the training, understood it, and will follow the provisions of the Acceptable Use Policy and/or Acceptable Use Agreement(s).

Sec. 4.28.3.1. Cyberbullying

The Acceptable Use Policies include provisions intended to prohibit and establish penalties for inappropriate and oppressive conduct, including cyber-bullying.

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Moody Early Childhood Center is a place of tolerance and good manners. Students may not use the network or any **Moody Early Childhood Center** computer facilities for hate mail, defamatory statements, statements intended to injure or humiliate others by disclosure of personal information (whether true or false), personal attacks on others, and statements expressing animus towards any person or group by reason of race, color, religion, national origin, gender, sexual orientation or disability.

Network users may not use vulgar, derogatory, or obscene language. Network users also may not post inappropriate anonymous messages or forge e-mail or other messages.

Furthermore, **Moody Early Childhood Center** computers and network facilities may not be used for any activity, or to transmit any material, that violates United States, State of Texas, or local laws. This includes, but is not limited to, any threat or act of intimidation or harassment against another person.

SEC. 4.28.4.1. CYBERSECURITY

Sec. 4.28.4.1. Cybersecurity Policy

Moody Early Childhood Center shall adopt a cybersecurity policy³ to:

1. Secure school cyberinfrastructure against cyber-attacks and other cybersecurity incidents; and
2. Determine cybersecurity risk and implement mitigation planning.

Sec. 4.28.4.1. Cybersecurity Coordinator

The superintendent shall designate a cybersecurity coordinator to serve as a liaison between the school and the Texas Education Agency (TEA) in cybersecurity matters and as required by law report to TEA breaches of system security.⁴

Sec. 4.28.4.1. Report to TEA

Moody Early Childhood Center's cybersecurity coordinator shall report to TEA, or, if applicable, the entity that administers a system developed by the TEA and the Texas Department of Information Resource (DIR) to coordinate the anonymous sharing of information concerning cyber attacks or other cybersecurity incidents between schools and the state, any cyber attack or

³ A cybersecurity policy is not required by law for open-enrollment charter schools, but is recommended as best practice. A sample Information Security Policy Template is provided [[insert link to location](#)]. This template originated from Texas Gateway and has been slightly revised to address open-enrollment charter schools. It contains suggested policy templates. Additional resources concerning cybersecurity can be found at [[insert link to location](#)].

⁴ A designed cybersecurity coordinator is not required by law for open-enrollment charter schools, but is recommended as best practice.

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other cybersecurity incident against the school cyberinfrastructure that constitutes a breach of system security as soon as practicable after the discovery of the attack or incident.⁵

Sec. 4.28.4.1. Report to Parent

The School's cybersecurity coordinator shall provide notice to a parent of or person standing in parental relation to a student enrolled in the School of an attack or incident for which a report is required to TEA involving the student's information.⁶

Sec. 4.28.4.1. Definitions

For purposes of this section, the following definitions apply:

"Breach of system security" means an incident in which student information that is sensitive, protected, or confidential, as provided by state or federal law, is stolen or copied, transmitted, viewed, or used by a person unauthorized to engage in that action.⁷

"Cyber attack" means an attempt to damage, disrupt, or gain unauthorized access to a computer, computer network, or computer system.⁸

"Cybersecurity" means the measures taken to protect a computer, computer network, or computer system against unauthorized use or access.⁹

Sec. 4.28.4.1. Cybersecurity Training

Each School employee and Board member shall annually complete a cybersecurity training program designated by the School. Additionally, the School shall complete periodic audits to ensure compliance with the cybersecurity training requirements.¹⁰

SEC. 4.28.4.1. SECURITY BREACH NOTIFICATION

Sec. 4.28.4.1. To Individuals

A School that owns, licenses, or maintains computerized data that includes sensitive personal information shall disclose any breach of system security, after discovering or receiving notification of the breach, to any individual whose sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be

⁵ Texas Education Code §11.175(e).

⁶ Texas Education Code §11.175(f).

⁷ Texas Education Code §11.175(a).

⁸ Texas Education Code §11.175(a).

⁹ Texas Education Code §11.175(a).

¹⁰ This is not required by law for open-enrollment charter schools, but is recommended as best practice. Texas Gateway provides information on cybersecurity training programs and free cybersecurity training through Cybrary: <https://www.texasgateway.org/resource/cybersecurity-tips-and-tools>

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made without unreasonable delay and in each case not later than the 60th day after the date on which the School determines that the breach occurred, except as provided at Criminal Investigation Exception, below, or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system.¹¹

Sec. 4.28.4.1. Resident of Other State

If the individual whose sensitive personal information was or is reasonably believed to have been acquired by an unauthorized person is a resident of a state that requires a person that owns or licenses computerized data to provide notice of a breach of system security, the notice of the breach of system security required under Notice, below, may be provided under that state's law or under Notice, below.¹²

Sec. 4.28.4.1. To the Owner or License Holder

A School that maintains computerized data that includes sensitive personal information not owned by the School shall notify the owner or license holder of the information of any breach of system security immediately after discovering the breach, if the sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person.¹³

Sec. 4.28.4.1. Notice

Upon discovering or receiving notification of a breach of system security, Moody Early Childhood Center shall disclose the breach to affected persons or entities in accordance with the time frames established by law and this policy.

Sec. 4.28.4. Moody Early Childhood Center shall give notice by using one or more of the following methods in compliance with applicable law¹⁴:

1. Written notice.
2. Electronic mail, if Moody Early Childhood Center has electronic mail addresses for the affected persons.
3. Conspicuous posting on Moody Early Childhood Center's website.
4. Publication through broadcast media.

The School's cybersecurity coordinator shall disclose a breach involving sensitive, protective, or confidential student information to TEA and parents in accordance with applicable law.

Sec. 4.28.4.1. Information Security Policy

A School that maintains its own notification procedures as part of an information security policy for the treatment of sensitive personal information that complies with the timing requirements for

¹¹ Tex. Bus. & Com. §521.053(b).

¹² Tex. Bus. & Com. §521.053(b-1).

¹³ Tex. Bus. & Com. §521.053(c).

¹⁴ Tex. Bus. & Com. §521.053(e), (f).

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notice described above complies with the notice requirements if the School notifies affected persons in accordance with that policy.¹⁵

Sec. 4.28.4.1. To the Attorney General¹⁶

A School that is required to disclose or provide notification of a breach of system security under these provisions shall notify the attorney general of that breach not later than the 60th day after the date on which the School determines that the breach occurred if the breach involves at least 250 residents of this state. The notification must include:

1. A detailed description of the nature and circumstances of the breach or the use of sensitive personal information acquired as a result of the breach;
2. The number of residents of this state affected by the breach at the time of notification;
3. The number of affected residents that have been sent a disclosure of the breach by mail or other direct method of communication at the time of notification;
4. The measures taken by the School regarding the breach;
5. Any measures the School intends to take regarding the breach after the notification described at Notice, above; and
6. Information regarding whether law enforcement is engaged in investigating the breach.

Sec. 4.28.4.1. To a Consumer Reporting Agency

If the School is required to notify at one time more than 10,000 persons of a breach of system security, the School shall also notify each consumer reporting agency, as defined by 15 U.S.C. 1681a, that maintains files on consumers on a nationwide basis, of the timing, distribution, and content of the notices. The School shall provide the notice without unreasonable delay.¹⁷

Sec. 4.28.4.1. Criminal Investigation Exception

A School may delay providing the required notice to individuals or the owner or license holder at the request of a law enforcement agency that determines that the notification will impede a criminal investigation. The notification shall be made as soon as the law enforcement agency determines that the notification will not compromise the investigation.¹⁸

Sec. 4.28.4.1. Definitions

For purposes of security breach notifications, the following definitions apply:

“Breach of system security” means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of sensitive personal information maintained by a person, including data that is encrypted if the person accessing the data has the key required to decrypt the data. Good faith acquisition of sensitive personal information by an employee or agent of the person for the purposes of the person is not a breach of system security

¹⁵ Tex. Bus. & Com. §521.053(g).

¹⁶ Tex. Bus. & Com. §521.053(i).

¹⁷ Tex. Bus. & Com. §521.053(h).

¹⁸ Tex. Bus. & Com. §521.053(d).

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unless the person uses or discloses the sensitive personal information in an unauthorized manner.¹⁹

“Sensitive personal information”²⁰ means:

1. An individual’s first name or first initial and last name in combination with any one or more of the following items, if the name and the items are not encrypted:

- a. Social security number;
- b. Driver’s license number or government-issued identification number; or
- c. Account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to an individual’s financial account; or

2. Information that identifies an individual and relates to:

- a. The physical or mental health or condition of the individual;
- b. The provision of health care to the individual; or
- c. Payment for the provision of health-care to the individual.

“Sensitive personal information” does not include publicly available information that is lawfully made available to the public from the federal government or a state or local government.

¹⁹ Tex. Bus. & Com. §521.053(a).

²⁰ Tex. Bus. & Com. §521.053(a)(2),(b).

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DISCLAIMER

This template provides Texas open-enrollment charter holders and their open-enrollment charter schools with a sample policy pertaining to authority over fiscal matters. The policy included in this template is not all-inclusive and only addresses the minimum requirements established by applicable or relevant legal requirements and best practice. Consequently, users may need to include additional policy statements addressing their unique local requirements. Lastly, users should consult with a legal or other qualified advisor to guide them in the development and maintenance of a policy that is consistent with the applicable or relevant legal requirements addressed in this template.

NOT LEGAL ADVICE. As legal advice must be tailored to the specific circumstances of each case, nothing provided herein should be used as a substitute for advice of competent counsel. The statements in this template do not constitute legal advice, do not necessarily reflect the opinions of Schulman, Lopez, Hoffer & Adelstein, LLP or any of its lawyers or clients, and are not guaranteed to be correct, complete or up-to-date. Further, if your corporation and its charter school(s) are not clients of the Firm, this template is not intended to create, and does not create, an attorney-client relationship between your corporation and its charter school(s) and Schulman, Lopez, Hoffer & Adelstein, LLP; commensurately, you should not act or rely on any information in this template without consulting your own legal and other qualified advisors. Accordingly, please do not send the Firm any information about any legal matter, which may involve your corporation or your charter school unless or until you have received a written statement from the Firm in the form of an engagement letter confirming that we represent you.

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PG-5.001: AUTHORITY OVER FISCAL MATTERS

SEC. 1. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of MOODY CHILDHOOD CENTER doing business as Moody Early Childhood Center (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Business Organizations Code (“Tex. Bus. Org. Code”) Sections 3.101, 22.201, 22.221 and 22.235;
- (b) Texas Education Code (“Tex. Ed. Code”) Sections 12.111(a)(16), 12.115(a)(2) and 12.121;
- (c) Texas Administrative Code, Title 19 (“19 TAC”), §§ 100.1033 and 100.1101;
- (d) Code of Federal Regulations, Title 2 (“2 CFR”), § 200.303;
- (e) *Standards for Internal Control in the Federal Government* (September 2014) promulgated by the Comptroller General of the United States;
- (f) *Internal Control – Integrated Framework* (2013 Update) issued by Committee of Sponsoring Organizations of the Treadway Commission;
- (g) *Government Auditing Standards* (2018 Revision) promulgated by the U.S. Government Accountability Office; and
- (h) Financial Accountability System Resource Guide.

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

Sec. 2. APPLICABILITY.

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

Sec. 3. FINAL AUTHORITY.¹

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

- (a) Adopt and amend policy;

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

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- (b) Adopt and amend the budget, including the number and type of personnel units to be employed by the School;
- (c) Approve amendments to School’s charter with TEA, including the organizational structure of the School;
- (d) Approve the obligation and expenditure of funds;
- (e) Approve the use of property;²
- (f) Approve the purchase, lease or sale of real property.³
- (g) Direct the disposition and safekeeping of records, including access to, control over and possession of such records;
- (h) Approve the annual financial and compliance report;
- (i) Set compensation for the CEO/Superintendent and for officers, as defined in Sec. 5 of this policy, and employees through the adoption of policy and the annual operating budget, including the School’s compensation plan and salary and wage schedules;
- (j) Approve contracts for the acquisition of personal property⁴ and the purchase of goods and services;⁵
- (k) Amend its governing documents (articles of incorporation or certificate of formation, corporate bylaws and any other document or record establishing the protocols and

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

³ Tex. Ed. Code § 12.106(f)(4). 19 TAC § 100.1101(b), (c) requires that the Board of a charter holder maintain the primary responsibility for implementing the public school program authorized by the open-enrollment charter and ensuring the performance of the students enrolled in its charter schools in accordance with the Tex. Ed. Code. The rule further provides, under (b)(1), that “An open-enrollment charter grants to the governing body of a charter holder the authority to operate a charter school” and, under (b)(2), that, “Except as provided by this section, the governing body’s powers and duties to operate the charter school shall not be delegated, transferred, assigned, encumbered, pledged, subcontracted, or in any way alienated by the governing body of the charter holder. Any attempt to do so shall be null and void and of no force or effect and shall constitute abandonment of the contract for charter.”

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

⁵ *El Paso Education Initiative, Inc. v. Amex Properties, LLC*, 385 S.W.3d 701, 706, 708 (Tex. App.–El Paso 2012, pet. denied.). Tex. Bus. Org. Code §§ 3.101 and 22.201; Tex. Ed. Code §§ 12.115(a)(2) and 12.121; 19 TAC §§ 100.1033(b)(14)(C)(ii), 100.1043(a)(2) and 100.1101(a)/(d)

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practices of the Board and School) subject to approval of a charter amendment by the commissioner of education; and

- (l) Establish and staff committees to support the Board with its fiscal oversight of the School’s business affairs, finances and operations.

Sec. 3.2. This final authority notwithstanding, the Board hereby authorizes the Chief Financial Officer (the “Delegate”) to initially exercise the authority set forth in Sec. 3.1(d), (e), and (g) of this policy in a manner consistent with this and other Board policy. Notwithstanding the above initial delegation, the Delegate shall bring recommendations through the Board’s committee process and to the Board for final review and consideration of approval.⁶

Sec. 3.3. In accordance with applicable Board policy, the Delegate shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of this policy, and any conflicted,⁷ interested,⁸ or related⁹ party, as defined in other Board policy or applicable law, expressly including family members by blood or marriage to the third-degree. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

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

Sec. 3.5. Any delegation of authority notwithstanding, the Board remains responsible for any business arrangement or transaction undertaken by the Delegate.¹⁰

Sec. 4. DESIGNEE.

Sec. 4.1. In Board policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee. If the Delegate confers authority to a designee, the Delegate shall do so in writing through an administrative procedure, job description, or internal memorandum. The Delegate’s conferred authority to a designee must be specific and must cite the policy section from which it

⁶ Consistent with the *Standards for Internal Control in the Federal Government*, the Board is segregating the duties over finances from the duties over operations. Although, through this and other policy, the Board requires that the Delegate report to the Board and the Board authorizes the Delegate to initially exercise certain authority over the School’s finances, the Chief Executive Officer and Superintendent shall be the Chief Financial Officer’s immediate supervisor for all purposes.

⁷ Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

⁸ 19 TAC § 100.1047(f)

⁹ Tex. Ed. Code § 12.1166

¹⁰ Tex. Ed. Code § 12.121; 19 TAC § 100.1101(d)

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is derived. Any delegation of authority to a designee not documented as set forth in this section shall be null and void.

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

Sec. 5. **OFFICER.**

For the purposes set forth in this and other Board policy, *Officer* means a person charged with the duties of, or acting as, a chief executive officer, a central administration officer, a campus administration officer, or a business manager¹¹ including individuals employed in the following central administrative and campus leadership positions:

- (a) Chief Executive Officer and Superintendent,
- (b) Deputy Superintendent,
- (c) Assistant Superintendent of Curriculum and Instruction,
- (d) Business Manager,
- (e) Director of Federal Programs,
- (f) Principal,
- (g) Assistant Principal, and
- (h) Any other person that may be characterized as an officer under applicable law.

Sec. 6. **BOARD AUTHORIZATION REQUIRED.**

Sec. 6.1. Consistent with Sec. 3 of this policy and the Board's fiduciary duties and standard of care established under applicable law, the Delegate shall present to the Board for approval any business arrangement or transaction with a cost or value of \$50,000 or that relates to an officer, as defined in Sec. 5 of this policy, or conflicted,¹² interested,¹³ or related¹⁴ party, as defined in other Board policy or applicable law.

Sec. 6.2. The Delegate shall present all contracts to the Board for its approval.¹⁵

¹¹ 19 TAC § 100.1001(16)

¹² Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

¹³ 19 TAC § 100.1047(f)

¹⁴ Tex. Ed. Code § 12.1166

¹⁵ *El Paso Education Initiative, Inc. v. Amex Properties, LLC*, 385 S.W.3d 701, 706, 708 (Tex. App.–El Paso 2012, pet. denied.). Tex. Bus. Org. Code §§ 3.101 and 22.201; Tex. Ed. Code §§ 12.115(a)(2) and 12.121; 19 TAC §§ 100.1033(b)(14)(C)(ii), 100.1043(a)(2) and 100.1101(a)/(d)

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Sec. 7. PRUDENT PERSON RULE.¹⁶

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

Sec. 8. ABUSE AND WASTE PROHIBITED.

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

Sec. 8.2. For purposes of this policy, abuse is defined as behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances. Abuse includes misuse of authority or position for personal financial interests or those of an immediate or close family member or business associate.¹⁷

Sec. 8.3. For purposes of this policy, waste is defined as the act of using or expending resources carelessly, extravagantly, or to no purpose. In this context, waste relates primarily to mismanagement, inappropriate actions, and inadequate oversight.¹⁸

Sec. 9. TRAINING AND UPDATES.¹⁹

The Delegate or designee shall properly train or ensure training is provided to School officers and employees on the requirements of this policy and any administrative procedures adopted to implement this policy. Additionally, the Delegate or designee shall keep School officers and employees informed of any changes to this policy and related requirements.

¹⁶ Tex. Bus. Org. Code § 22.221; Tex. Prop. Code §§ 163.004, 163.005 and 163.006; 2 CFR § 200.303(a) and *Standards for Internal Control in the Federal Government* § 8.03; 2 CFR § 200.404; *Government Auditing Standards* §§ 6.23, 7.25, and 8.122.

¹⁷ *Government Auditing Standards*, Sec. 6.23, 7.25 and 8.122

¹⁸ *Government Auditing Standards*, Sec. 6.21, 7.23 and 8.120

¹⁹ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

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Sec. 10. **ADMINISTRATIVE PROCEDURES.**²⁰

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

Sec. 11. **DATE ADOPTED AND EFFECTIVE.**

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on MDY and became effective on MDY.

Sec. 12. **RETENTION.**²¹

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter in accordance with state law.

²⁰ Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in School's Articles of Incorporation and Bylaws and in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is School's governing authority and, as such, manages and directs School's business and affairs through Board actions, resolutions and policy.

²¹ Tex. Ed. Code § 12.1052; 19 TAC § 100.1203; See Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, § 7.125(a)(1).

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Sec. 13. **CERTIFICATION.**

The Undersigned, being the Secretary of the Board, hereby certifies that the foregoing represents a true copy of the Board Policy relating to Authority Over Fiscal Matters, as originally adopted by the Board on MDY, which Policy is in full force and effect and has not been revoked or amended.

[INSERT NAME HERE.], Secretary

Date Certified

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CODE OF ETHICS AND FISCAL STEWARDSHIP

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PG-5.002: CODE OF ETHICS AND FISCAL STEWARDSHIP

SEC. 1. MISSION STATEMENT.

[INSERT CHARTER HOLDER’S MISSION STATEMENT]

SEC. 2. BOARD STEWARDSHIP.

It is the policy of **MOODY EARLY CHILDHOOD CENTER** to advocate for and issue financial decisions and practices that both further the mission of **MOODY EARLY CHILDHOOD CENTER**, as described above, and that are made in the interest of the charter holder in compliance with its fiduciary duty owed to **MOODY EARLY CHILDHOOD CENTER** students.

As such, the Board of Directors (“Board”) shall make financial decisions with integrity, fairness, objectivity, and that maximize benefits while minimizing the cost of goods and services to **MOODY EARLY CHILDHOOD CENTER**.

The Board shall, as a body corporate and as individual members, explore and develop fiscal stewardship through training and other means of educating Board members in the understanding of legal and other requirements pertaining to financial management of **MOODY EARLY CHILDHOOD CENTER** and **MOODY EARLY CHILDHOOD CENTER**.

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

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DISCLAIMER

This template provides Texas open-enrollment charter holders and their open-enrollment charter schools with a sample policy pertaining to the adoption and amendment of the annual operating budget. The policy included in this template is not all-inclusive and only addresses the minimum requirements established by applicable or relevant legal requirements and best practice. Consequently, users may need to include additional policy statements addressing their unique local requirements. Lastly, users should consult with a legal or other qualified advisor to guide them in the development and maintenance of a policy that is consistent with the applicable or relevant legal requirements addressed in this template.

NOT LEGAL ADVICE. As legal advice must be tailored to the specific circumstances of each case, nothing provided herein should be used as a substitute for advice of competent counsel. The statements in this template do not constitute legal advice, do not necessarily reflect the opinions of Schulman, Lopez, Hoffer & Adelstein, LLP or any of its lawyers or clients, and are not guaranteed to be correct, complete or up-to-date. Further, if your corporation and its charter school(s) are not clients of the Firm, this template is not intended to create, and does not create, an attorney-client relationship between your corporation and its charter school(s) and Schulman, Lopez, Hoffer & Adelstein, LLP; commensurately, you should not act or rely on any information in this template without consulting your own legal and other qualified advisors. Accordingly, please do not send the Firm any information about any legal matter, which may involve your corporation or your charter school unless or until you have received a written statement from the Firm in the form of an engagement letter confirming that we represent you.

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**PG-5.020: AUTHORIZATION FOR
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Sec. 1. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of MOODY EARLY CHILDHOOD CENTER doing business as MOODY EARLY CHILDHOOD CENTER (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

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

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

Sec. 2. AUTHORITY OVER FISCAL MATTERS.

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

Sec. 2.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,¹ interested² or related³ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

¹ Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

² 19 TAC § 100.1047(f)

³ Tex. Ed. Code § 12.1166

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Sec. 2.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

Sec. 3. INITIAL ADOPTION.⁴

Sec. 3.1. Proposed Budget. In accordance with the policy statements set forth in Sec. 8 of this policy, the Delegate or designee shall prepare and recommend an annual budget for the School (“Proposed Budget”), for consideration and adoption by the Board. In preparing the Proposed Budget, the Delegate or designee shall include any and all descriptions and amounts for estimated revenues from all sources of local, state and Federal funding, both known and anticipated, and proposed expenses and outlays for personnel, professional and contracted services, real and personal property, debt service, materials, supplies, and other operating expenses reasonable and necessary for the conduct of the School’s operations and the furtherance of its mission.

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

Sec. 3.3. Coordination and Collaboration. The Delegate or designee shall coordinate and collaborate with the Chief Executive Officer and other officers, as defined in Sec. 5 of the Controlling Policy, to develop the Proposed Budget.

Sec. 3.4. Compensation Plan. As part of the Proposed Budget, the Delegate or designee shall prepare a compensation plan that identifies all remuneration to be provided to School employees, including, but not limited to, salary, hourly wages, stipends and supplemental pay, extra-duty pay, incentives, and fringe benefits.⁵ In the compensation plan, the Delegate or designee shall identify the salary and hourly wage range for each position. Additionally, the Delegate or designee shall identify the amount for each stipend and supplement pay by type of qualification or requirement, such as having an advanced degree or teaching certification, or performing additional duties to chair a campus department. The Delegate or designee shall base extra-duty pay upon the position’s salary, as an hourly amount, or hourly wage in a manner consistent with applicable law.

⁴ FASRG Module 2; Tex. Ed. Code § 44.002; 19 TAC § 100.1033(b)(14)(C)(ii)

⁵ The Delegate or designee shall address the reimbursement of travel and other expenses incurred by employees for the official conduct of School business through other Board policy.

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Sec. 3.5. Incentives. As part of the compensation plan, the Delegate or designee shall develop a performance incentive program that provides incentive compensation to employees for longevity, perfect attendance, retention, safety, student performance, and other data driven, measurable performance related outcomes.

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

Sec. 3.7. Finance Committee Review. Prior to submitting the Proposed Budget to the Board, the Delegate shall first submit the Proposed Budget to the Board's Finance Committee. The Finance Committee may propose modifications to the Proposed Budget.

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

Sec. 4. AMENDMENT.⁶

Sec. 4.1. During the course of the fiscal year, and in accordance with the policy statements set forth in Sec. 8 of this policy, the Delegate or designee shall prepare a proposed amendment to the Adopted Budget ("Proposed Amendment") to account for any material variances between realized and estimated revenues and actual and budgeted expenses and outlays.

Sec. 4.2. For purposes of this section and in regard to revenues, a material variance is any difference between realized and estimated revenues that is equal to or greater than ten percent (10%) of the estimated revenues, as amended. For purposes of this subsection, the comparison shall be by major object classification.

Sec. 4.3. For purposes of this section and in regard to expenses, a material variance is any difference between actual and budgeted expenses that is equal to or greater than ten percent (10%) of the budgeted expenses, as amended. For purposes of this subsection, the comparison shall be at the level of detail as disclosed in the Adopted Budget.

Sec. 4.4. For purposes of this section, the Delegate or designee shall prepare a Proposed Amendment for an affected line item as presented to and adopted by the Board in the Adopted Budget, as amended. The Delegate shall submit Proposed Amendments to the Board for review and approval. After reviewing, deliberating, and as appropriate and necessary, revising the

⁶ FASRG Module 2; Tex. Ed. Code §§ 44.006 and 44.052; 19 TAC § 100.1033(b)(14)(C)(ii)

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Proposed Amendment, the Board shall approve the Proposed Amendment (“Approved Amendment”).

Sec. 4.5. At the Board’s discretion, the Board may, at any time, review any Approved Amendment subject to this policy and approve or disapprove the Finance Committee’s initial action on the Board’s behalf.

Sec. 4.6. The Delegate shall obtain an Approved Amendment required under this section prior to the obligation and expenditure of funds.

Sec. 4.7. Prior to the conclusion of the fiscal year, the Delegate or designee shall prepare a final Proposed Amendment to the Adopted Budget, as amended, to account for all unfavorable, material variances between actual and budgeted expenses. For purposes of this subsection, and for the specific line item authorized by the Board, “unfavorable” means that actual expenses exceed budgeted expenses, as adopted and amended by the Board, and “material” means that the variance exceeds ten percent (10%) of the budgeted expenses, as adopted and amended by the Board.

Sec. 5. AUTHORITY TO OBLIGATE AND EXPEND.⁷

Sec. 5.1. The Adopted Budget, as amended, constitutes the Board’s authorization to the School to obligate and expend funds. The School shall not obligate or expend any funds without the Board’s authorization as set forth in the Adopted Budget, as amended.

Sec. 5.2. Because the Board’s appropriation of funds is contingent on continued funding from the state and federal governments, the Delegate or designee shall include the following provisions in any agreement or contract, including a purchase order, that results in a business arrangement or transaction that extends beyond the current fiscal year.

- (a) A clause that enables the Board to terminate the agreement or contract at the end of the fiscal year due to the non-appropriation of funds.
- (b) A clause that allows the Board to make a best effort attempt to obtain and appropriate funds for the payment of the contract.⁸

⁷ FASRG Module 1 and 2; Tex. Ed. Code § 44.052

⁸ Texas Local Government Code § 271.903(a)

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Sec. 6. NOTICE TO THE PUBLIC.⁹

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

Sec. 7. DEADLINE FOR ADOPTION.¹⁰

The Delegate shall submit the Proposed Budget to the Board and the Finance Committee at least ten (10) business days prior to the start of the fiscal year or school year, whichever date is earliest.

Sec. 8. FORM AND CONTENT OF BUDGET AND AMENDMENTS.

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

Sec. 8.2. The Delegate or designee shall prepare the Proposed Budget and Proposed Amendments utilizing the account code structure required by the Texas Education Agency (“TEA”) and providing sufficient itemization to provide the Board and the Finance Committee meaningful financial information to make an informed decision.¹¹ In the Proposed Budget, except for net assets (or fund balance), the Delegate or designee shall exclude any amounts set aside for future use without a specific purpose in mind and not include any amounts that do not constitute anticipated expenses.

Sec. 8.3. The Delegate or designee shall prepare a Proposed Budget and Proposed Amendments that include an adequate and sufficiently descriptive disclosure of the proposed expenses for:

- (a) salaries, wages and fringe benefits, including allowances, awards, gifts, incentives of any kind, and any form of monetary or in-kind benefit, both taxable and tax-exempt and irrespective of value;
- (b) professional services, as defined in state law;

⁹ FASRG Module 2

¹⁰ *Ibid.*

¹¹ *Ibid.*

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- (c) public works and construction services contracts;
- (d) supplies, materials, travel, non-employee incentives, and other operating costs;
- (e) debt service;
- (f) the acquisition of capital assets, other than for public works; and
- (g) any other type of activity, cost, expense function, program, or service required by the Board or Finance Committee.

Sec. 9. ACCURACY OF REVENUE ESTIMATE.¹²

Recognizing the critical significance of an accurate revenue estimate upon which to make an informed decision as to the amounts to be appropriated for expenses in the Adopted Budget, the Delegate or designee shall prepare a revenue estimate that is found to be within ten percent (10%) of the School's realized revenues.

Sec. 10. PROPOSED EXPENSES TO COMPLY WITH ALLOWABLE USES OF FUNDS.¹³

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

Sec. 11. FISCAL COMPLIANCE.¹⁴

The Delegate or designee shall prepare a Proposed Budget and Proposed Amendment(s) that comply with:

- (a) The Financial Integrity Rating System of Texas ("FIRST") to yield a favorable financial accountability rating.
- (b) The maintenance of effort requirements for Federal awards received under the Elementary and Secondary Education Act and the Individuals with Disabilities Education Act.
- (c) State law mandating the minimum percentage that must be expended for the following student-based allotments:
 - (1) Special education allotment,
 - (2) Allotment for student with dyslexia or other related disorder,
 - (3) Compensatory education allotment,
 - (4) Bilingual education allotment,

¹² 19 TAC § 109.1001(f)(5); FIRST Indicator 10

¹³ Tex. Ed. Code §§ 12.107 and 45.105(c); 19 TAC § 100.1043(a)

¹⁴ 19 TAC § 100.1047(b)(4)

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- (5) Career and technology education allotment,
 - (6) Early education allotment,
 - (7) Gifted and talented education allotment, and
 - (8) College, career, or military readiness outcomes bonus.
- (d) Other applicable Federal or state legal requirements.

Sec. 12. PUBLICATION OF ADOPTED BUDGET.¹⁵

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

Sec. 13. REPORT TO THE FINANCE COMMITTEE.¹⁶

Within ten (10) business days after each calendar month, the Delegate shall provide to the Board’s Finance Committee a comparison of actual expenses to budgeted expenses, as amended, and provide a statement accounting for any variances exceeding ten percent (10%). In the statement, the Delegate shall disclose any corrective measures undertaken to address any and all variances exceeding ten percent (10%), including the preparation of a Proposed Amendment. The Finance Committee Chair shall report to the Board any findings under this section.

Sec. 14. TRAINING AND UPDATES.¹⁷

The Delegate or designee shall properly train officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep officers and employees informed of any changes to this policy and related requirements.

Sec. 15. ADMINISTRATIVE PROCEDURES.¹⁸

The Delegate shall formally adopt administrative procedures as reasonably necessary to properly administer this policy and to adhere to applicable law and rule. In doing so, the Delegate shall

¹⁵ 19 TAC § 100.1032(2)K)

¹⁶ FASRG Module 2

¹⁷ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

¹⁸ Tex. Ed. Code § 12.115(a)(2); FASRG Module 2; 2 CFR § 200.303. Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in School’s Articles of Incorporation and Bylaws and in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is the School’s governing authority and, as such, manages and directs School’s business and affairs through Board actions, resolutions and policy.

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not adopt, and is prohibited from adopting, an administrative procedure that conflicts with applicable law or this policy. Accordingly, the Delegate shall confer with the Board or legal counsel before deviating from the requirements set forth in this policy. In the event that a deviation from this policy becomes necessary, the Delegate shall either recommend an amendment to this policy or the Board’s approval of a specific deviation, including the purpose, scope and duration of the requested deviation.

Sec. 16. **DATE ADOPTED AND EFFECTIVE.**

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on MDY and became effective on MDY.

Sec. 17. **RETENTION.**¹⁹

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter.

Sec. 18. **CERTIFICATION.**

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to the Authorization for the Obligation and Expenditure of Funds, as originally adopted by the Board on MDY, which Policy is in full force and effect and has not been revoked or amended.

[INSERT NAME HERE.], Secretary

Date Certified

¹⁹ Tex. Ed. Code § 12.1052; 19 TAC § 100.1203; *See* Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, § 7.125(a)(1).

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ALLOWABLE AND PROHIBITED USES OF FUNDS**

PG-5.030

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This template provides Texas open-enrollment charter holders and their open-enrollment charter schools with a sample policy pertaining to the allowable and prohibited uses of funds, notably public funds. The policy included in this template is not all-inclusive and only addresses the minimum requirements established by applicable or relevant legal requirements and best practice. Consequently, users may need to include additional policy statements addressing their unique local requirements. Lastly, users should consult with a legal or other qualified advisor to guide them in the development and maintenance of a policy that is consistent with the applicable or relevant legal requirements addressed in this template.

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Sec. 1. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of MOODY EARLY CHILDHOOD CENTER doing business as MOODY EARLY CHILDHOOD CENTER (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Constitution, Article III, Sec. 51, 52 and 53;
- (b) Texas Business Organizations Code (“Tex. Bus. Org. Code”) Sections 3.101, 22.201, 22.221 and 22.235;
- (c) Texas Property Code (“Tex. Prop. Code”), Chapter 163;
- (d) Texas Education Code (“Tex. Ed. Code”) Sections 12.104(b)(1), 12.107, 12.111(a)(10), 12.115(a)(2), 12.121, 42.168, 44.052, 45.105(b)/(c) and Chapter 48, Subchapters C and D;
- (e) Texas Administrative Code, Title 19 (“19 TAC”), Sections 89.1125, 100.1033, 100.1043, 100.1047 and 100.1101;
- (f) United States Code, Title 26, §501;
- (g) Code of Federal Regulations (“CFR”), Title 2, Part 200 and Title 26, Part 1;
- (h) *Standards for Internal Control in the Federal Government* promulgated by the Comptroller General of the United States;
- (i) *Internal Control – Integrated Framework* issued by Committee of Sponsoring Organizations of the Treadway Commission;
- (j) *Government Auditing Standards* (2018 Revision) promulgated by the U.S. Government Accountability Office; and
- (k) *Uniform Grant Management Standards* promulgated by the Texas Comptroller of Public Accounts; and
- (l) Financial Accountability System Resource Guide (“FASRG”).

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

Sec. 2. AUTHORITY OVER FISCAL MATTERS.

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

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Sec. 2.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,¹ interested² or related³ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 2.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

Sec. 3. **APPLICABILITY OF POLICY.**

Unless otherwise noted herein, this policy applies to the use of local, state and Federal funds regardless of the originating source of the funds.

Sec. 4. **PRUDENT PERSON RULE.**⁴

See Sec. 7 of the Controlling Policy.

Sec. 5. **ABUSE AND WASTE PROHIBITED.**

See Sec. 8 of the Controlling Policy.

Sec. 6. **FIDUCIARY DUTY.**⁵

As fiduciaries, the Board and officers, as defined in Sec. 5 of the Controlling Policy, have been entrusted with funds for the benefit of the School’s students. Accordingly, School funds, property and other resources shall be used for the benefit of the School’s students to provide elementary and secondary instruction and to implement the approved open-enrollment charter,⁶ as amended.

¹ Tex. Ed. Code §12.1054; 19 TAC §§ 100.1131 through 100.1135

² 19 TAC §100.1047(f)

³ Tex. Ed. Code §12.1166

⁴ Tex. Bus. Org. Code §22.221; Tex. Prop. Code §§ 163.004, 163.005 and 163.006; 2 CFR §200.303(a) and *Standards for Internal Control in the Federal Government* §8.03; 2 CFR §200.404; *Government Auditing Standards* §§ 6.23, 7.25, and 8.122; Uniform Grant Management Standards.

⁵ Tex. Ed. Code §§ 12.102(1), 12.107(a)(2) and 12.128(a)(2); 19 TAC §§ 100.1001(6), 100.1043(a), and 100.1063(b)/(c).

⁶ See 19 TAC §100.1001(15) for pertinent legal definition.

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Sec. 7. PROHIBITED USE OF PUBLIC FUNDS.⁷

The Board and officers, as defined in Sec. 5 of the Controlling Policy, may not pledge or use public funds to secure loans or bonds for any other organization, including a non-charter operation or out-of-state operation conducted by the charter holder or a related party⁸ or use public funds to support an operation or activity not related to the educational activities of the School.

Sec. 8. FUNDS TO SUPPORT INSTRUCTIONAL PLAN.

The Board and officers, as defined in Sec. 5 of the Controlling Policy, shall ensure that funds are used to support the implementation of the School's instructional plan.

Sec. 9. AUTHORITY TO OBLIGATE AND EXPEND.²

As established in the Board's Policy governing the Authorization for the Obligation and Expenditure of Funds, officers and employees shall not obligate or expend any funds without the Board's authorization, as set forth in the Adopted Budget, as amended.

Sec. 10. GENERAL REQUIREMENT.

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

Sec. 10.2. The Delegate and the School's officers shall ensure that a proposed use of funds:

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

⁷ Tex. Ed. Code §§ 12.106 and 12.107(a)(5); Public funds means state funds as defined at 19 TAC §100.1001(8).

⁸ Tex. Ed. Code §12.1166

⁹ FASRG Module 1 and 2; Tex. Ed. Code §44.052

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Sec. 11. **GENERALLY AUTHORIZED EXPENSES.**¹⁰

Sec. 11.1. In general, consistent with Sec. 8 of this policy and the Board’s Policy relating to the Authorization for the Obligation and Expenditure of Funds, the School is authorized to obligate and expend funds for the following purposes.

- (a) To compensate the Superintendent, teachers, janitors and other employees for employment services rendered.
- (b) To pay the interest for short-term loans acquired to compensate employees.
- (c) To purchase equipment, furniture, materials, software, supplies and vehicles.
- (d) To pay for insurance premiums.
- (e) To purchase real property for use as a school site pursuant to Board authorization.
- (f) To purchase, build, repair and rent school buildings pursuant to Board authorization.
- (g) As authorized by the Board, to acquire school buildings and real property by leasing through annual payments with an ultimate option to purchase.
- (h) For other purposes necessary in the conduct of the School as determined by the Board including for the following purposes.
 - (1) To develop and monitor a system of controls to ensure compliance with state and federal laws and rules.
 - (2) To administer state and federal grants.
 - (3) To conduct Board meetings and provide Board members with training.
 - (4) To procure legal, audit and other professional services necessary for the proper administration and oversight of the School.
 - (5) To record, compile, maintain and report data on student attendance, student enrollment, staff, finances, grants and other functions, programs, services and activities as required by the state and federal governments.
 - (6) To develop, maintain and update a charter instructional plan including conducting a comprehensive needs assessment.
 - (7) To conduct periodic assessments of students to identify potential learning deficiencies and to measure the students’ progress towards desired academic goals.
 - (8) For the upkeep and repair of facilities and instructional and instructionally related materials and equipment in the classroom and library, of food service equipment, and of vehicles.
 - (9) To provide breakfast and lunch meals and snacks to students pursuant to the guidelines and requirements of the Texas Department of Agriculture.
 - (10) To conduct field trips as authorized by the Board.
 - (11) For athletic and band equipment, instruments and uniforms.

¹⁰ Tex. Ed. Code §48.105(c)

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- (12) To conduct graduation and award ceremonies recognizing the achievements of students and staff.
- (13) To conduct pre/post-employment physicals or drug testing and background checks.
- (14) For the research, development and maintenance of curriculum and innovative, new or modified instruction.
- (15) For in-service training or staff development for instructional and instructionally related staff conducted by a regional education service center, an outside consultant(s) or School employee(s).
- (16) To travel to conduct official School business.
- (17) For utilities and the maintenance of telecommunication and computer networks and systems.
- (18) To provide a safe and drug free school environment.
- (19) For memberships in civic and professional organizations that further the School's mission.
- (20) For any other specifically identified purpose, function, activity, program or service authorized by the Board through the adoption of the School's annual operating budget and charter instructional plan including any amendments thereto.
- (21) For other purposes determined by the Board to be in the best interest of the School's students.

Sec. 11.2. For any proposed obligation or expenditure of public funds under Sec. 11.1(h)(20)-(21) of this policy that may appear to be a violation of the Texas Constitution,¹¹ the Board and Delegate may seek legal counsel to ascertain if a board resolution is necessary to meet the following requirements:

- (a) Identify the public purpose, amount, fund source, return benefit to the School and control(s) for the proposed expense;¹² and
- (b) Certify that:
 - (1) The statutes and regulations applicable to the fund source to be used allow and do not otherwise prohibit the proposed expense;¹³

¹¹ See Texas Constitution Art. III, §§ 44, 50, 51, 52(a), and 53 and Art. XI, §3.

¹² Attorney General of Texas Opinion No. GA-0076, GA-0743, KP-0099 and KP-0204.

¹³ See Tex. Att'y Gen. Op. No. GA-0743 (2009) at 2 ("The public purpose served by the expenditure must be an authorized public purpose of the political subdivision.").

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- (2) The predominant purpose of the proposed expense is to accomplish a public purpose¹⁴ and not to benefit private parties;¹⁵
- (3) The proposed expense shall provide a clear, public benefit in return;¹⁶ and
- (4) Sufficient control shall be retained over the expense to ensure that the public purpose is accomplished, and a return benefit is received.¹⁷

Sec. 12. GENERALLY PROHIBITED EXPENSES.

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

- (a) Alcoholic beverages.
- (b) Any good or service for personal benefit or use.
- (c) Entertainment, including amusement, diversion, and social activities.¹⁸
- (d) Field trips that are not part of a teacher’s lesson plan or that do not meet the instructional objectives of the charter instructional plan.
- (e) Fines and penalties levied against individuals.
- (f) Gifts, including donations.

Sec. 13. AUTHORIZED USES OF FUNDS FOR SPECIAL PROGRAMS.¹⁹

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

¹⁴ See Tex. Att’y Gen. Op. No. GA-0743 (2009) at 2 (“The public purpose served by the expenditure must be an authorized public purpose of the political subdivision.”). Thus, to meet this requirement, the Board must reasonably find that the activity to be supported by the proposed expense will yield the return benefit claimed and that said benefit serves the purposes of the open-enrollment charter.

¹⁵ See Tex. Att’y Gen. Op. No. GA-0076 (2003) at 6 (“An expenditure to accomplish a public purpose is constitutional even though it incidentally benefits a private interest.”).

¹⁶ See Tex. Att’y Gen. Op. No. KP-0099 (2016) at 5 (“In utilizing this test to evaluate public expenditures, Texas courts have suggested that ... (3) what constitutes an adequate return benefit depends on a variety of specific circumstances but is called into doubt if there is such a gross disparity in the relative values exchanged as to show unconscionability, bad faith, or fraud.”).

¹⁷ See Tex. Att’y Gen. Op. No. GA-0076 (2003) at 7 (“The school district must place sufficient controls on the expenditure to ensure that its public purpose is accomplished. Contractual terms may provide sufficient control of some expenditures. [...] Controls such as application requirements and limits on travel expenditures may be established by the board’s exercise of rule-making power.”).

¹⁸ FASRG, Update 17 (2020) Module 2, §2.2.2.1 (Social Activities).

¹⁹ Tex. Ed. Code Chapters 29 and 48.

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Sec. 14. INDIRECT COST LIMITATION.²⁰

The Delegate or designee may use and may only allow the use of state funds provided for the educational programs under Sec. 13 of this policy for indirect costs up to the maximum allowed by state law.

Sec. 15. AUTHORIZED USES OF FUNDS FOR FEDERAL PROGRAMS.

The Delegate or designee may use and may allow the use of federal funds for those purposes authorized by federal law and rule and the approved grant application, as amended.

Sec. 16. DOCUMENTATION REQUIRED.²¹

The Delegate or designee shall prepare or cause to have prepared records for all uses of funds. All recorded uses of funds shall adequately demonstrate compliance with this policy and applicable legal requirements.

Sec. 17. MONITORING AND OVERSIGHT OF BUDGETARY AUTHORIZATION.²²

The Delegate or designee shall regularly monitor and oversee the use of funds through the review and approval of purchase requisitions, purchase orders, payment authorizations, travel authorization requests, travel reimbursement forms, receiving reports, itemized vendor invoices and receipts, and any and all other such original record deemed appropriate and necessary to ascertain if a proposed or actual use of funds constitutes an allowable cost. The Delegate or designee shall document monitoring and oversight activities.

Sec. 18. USE OF RESTRICTED PHILANTHROPIC FUNDS.

If a donor restricts a contribution or School implies or states a specific purpose for its fundraising effort(s), the Delegate or designee may only use or allow the use of the contribution(s) received for the restricted purpose. See Board Policy relating to Fundraising and Gift Acceptance.

Sec. 19. REPORT TO THE FINANCE COMMITTEE.²³

Within ten (10) business days after each calendar month, the Delegate or designee shall provide to the Board's Finance Committee a comparison of actual expenses to budgeted expenses, as amended, and provide a statement accounting for any variances exceeding ten percent (10%). In

²⁰ Tex. Ed. Code §§ 48.102(h), 48.104(k), 48.105(b), 48.106(c) and 48.110(i).

²¹ Tex. Ed. Code §§ 12.1052 and 12.115(a)(2); 19 TAC §§ 100.1022(c)(1)(vi), 100.1032(2)(P) and 100.1203(a)(2)

²² Tex. Ed. Code §12.115(a)(2); 2 CFR §200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

²³ FASRG (Update 16) Module 2, §2.3.2.8.

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the statement, the Delegate or designee shall disclose any corrective measures undertaken to address any and all variances exceeding ten percent (10%). The Finance Committee Chair shall report to the Board any findings under this section.

Sec. 20. **TRAINING AND UPDATES.**²⁴

The Delegate or designee shall properly train officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep officers and employees informed of any changes to this policy and related requirements.

Sec. 21. **ADMINISTRATIVE PROCEDURES.**²⁵

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

Sec. 22. **DATE ADOPTED AND EFFECTIVE.**

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on MDY and became effective on MDY.

²⁴ 2 CFR §200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

²⁵ Tex. Ed. Code §12.115(a)(2); FASRG Module 2; 2 CFR §200.303. Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in School's Articles of Incorporation and Bylaws and in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is the School's governing authority and, as such, manages and directs School's business and affairs through Board actions, resolutions and policy.

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Sec. 23. **RETENTION.**²⁶

This policy shall be retained until superseded, expired or discontinued and for five (5) years thereafter.

Sec. 24. **CERTIFICATION.**

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to Allowable and Prohibited Uses of Funds, as originally adopted by the Board on MDY, which Policy is in full force and effect and has not been revoked or amended.

[INSERT NAME HERE.], Secretary

Date Certified

²⁶ Tex. Ed. Code §12.1052; 19 TAC §100.1203; *See* Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, §7.125(a)(1).

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PG-5.101: FISCAL COMPLIANCE MONITORING

SEC. 1. GENERAL PRINCIPLES.

The Superintendent of **MOODY EARLY CHILDHOOD CENTER** is charged with developing and implementing the monitoring systems described in this Policy

SEC. 2. STATE REQUIREMENTS.

The Superintendent or designee shall develop and implement a system to monitor the compliance of each **MOODY EARLY CHILDHOOD CENTER** campus with the following state requirements:

Sec. 2.1. Financial Solvency.

The Superintendent or designee shall monitor the financial solvency of each individual **MOODY EARLY CHILDHOOD CENTER** campus through the use of historical, budgeted and projected financial and other relevant data. In developing the monitoring system for financial solvency, the Superintendent shall consider the impact of the charter instructional plan for the current fiscal year and the long-term strategic plan for the subsequent three fiscal years. Additionally, the Superintendent shall consider conservative estimates of student enrollment, student attendance and revenue projections based upon historical data for the last five academic and fiscal years and data for the current and subsequent academic and fiscal year.

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

The Superintendent or designee shall monitor the finances and operation of each individual **MOODY EARLY CHILDHOOD CENTER** campus to attain a favorable FIRST rating. In developing the monitoring system for financial solvency, the Superintendent shall consider the adequacy of the system of internal controls to ensure that it enables each individual **MOODY EARLY CHILDHOOD CENTER** campus to achieve compliance with applicable legal requirements. To the degree appropriate and necessary, the Superintendent may consult with **MOODY EARLY CHILDHOOD CENTER**'s independent auditor or other qualified professional to identify potential issues that may result in an unfavorable FIRST rating.

Sec. 2.3. Indirect Cost Limitation.

The Superintendent or designee shall monitor the budgeted and actual expenditures for the special allotments allocated to each individual **MOODY EARLY CHILDHOOD CENTER** campus to ensure that the minimum required amount of state funds for each special program is

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expended. In developing the monitoring system for limiting the amount of indirect costs charged to each special program, the Superintendent shall consider the charter instructional plan and the total amount of common costs incurred to support **MOODY EARLY CHILDHOOD CENTER**'s instructional and instructionally-related program and the special programs required by the state.

SEC. 3. FEDERAL REQUIREMENTS.

The Superintendent or designee shall develop and implement or cause to have developed and implemented a system to monitor each individual **MOODY EARLY CHILDHOOD CENTER** campus's compliance with the following Federal requirements.

Sec. 3.1. Maintenance of Effort (MOE).

The Superintendent or designee shall monitor the finances and operation of each **MOODY EARLY CHILDHOOD CENTER** campus to ensure that the minimal fiscal effort required by the Federal government for general and special education is attained. In developing the monitoring system for MOE the Superintendent shall consider the impact of the charter instructional plan for the current fiscal year.

Sec. 3.2. General Education.

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

Sec. 3.3. Special Education.

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

Sec. 3.4. Supplement; Not Supplant.

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The Superintendent or designee shall monitor the finances and operation of each individual **MOODY EARLY CHILDHOOD CENTER** campus to ensure that Federal funds are expended to supplement and not supplant non-Federal sources of funding. In developing the monitoring system for the proper use of Federal funds the Superintendent shall consider the charter instructional plan, the approved budget and subsequent amendments, the identified needs of the students enrolled in **MOODY EARLY CHILDHOOD CENTER**, and the actual method of funding for a particular cost for the prior and current academic years.

Sec. 3.5. Excess Cost.

The Superintendent or designee shall monitor the finances and operation of each individual **MOODY EARLY CHILDHOOD CENTER** campus to ensure that Federal funds are used only to pay the excess costs for students enrolled in the special education program.

SEC. 4. PROJECTION OF POTENTIAL NONCOMPLIANCE.

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

SEC. 5. REQUIREMENT TO BE EXCEEDED.

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

SEC. 6. DATA TO BE USED.

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

SEC. 7. MONITORING TIMELINE.

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

SEC. 8. CORRECTIVE ACTION PLAN.

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

SEC. 9. REPORT TO THE BOARD.

At the beginning, middle and end of the fiscal year, the Superintendent shall report to the Board the status of each individual **MOODY EARLY CHILDHOOD CENTER** campus's compliance with the critical state and Federal fiscal requirements addressed by this policy. In the event that an instance or potential instance of noncompliance is identified, the Superintendent shall inform the Board of **MOODY EARLY CHILDHOOD CENTER**'s corrective action plan undertaken or to be undertaken.

SEC. 10. ADMINISTRATIVE PROCEDURES.

The Superintendent shall prepare administrative procedures as required to implement this policy.

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DISCLAIMER

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**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
MANUAL**

**POLICY GROUP 5 – FISCAL MANAGEMENT
FINANCIAL MANAGEMENT SYSTEM**

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PG-5.102: FINANCIAL MANAGEMENT SYSTEM

SEC. 1. FINANCIAL MANAGEMENT SYSTEM DEFINED.

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

- (a) *Budgetary Control.* The Financial Management System facilitates oversight of **MOODY EARLY CHILDHOOD CENTER**'s finances by the Board of Directors ("Board") through:
1. Documented practices that provide for the maintenance of records of the original budget and budget amendments as approved by the Board;
 2. Approval of obligations and expenses by the Superintendent, Chief Financial Officer and other authorized or designated **MOODY EARLY CHILDHOOD CENTER** administrators not exceeding budgeted amounts approved by the Board unless authorized in Board policy or through a Board approved budget amendment.
 3. Board receipt and review, including accurate, complete and timely updates by the Superintendent of compliance with the budget, as amended to include a comparison of the original and amended budget to **MOODY EARLY CHILDHOOD CENTER**'s actual obligations and expenses.
- (b) *Financial Reporting.* The Financial Management System shall provide accurate, complete and timely information regarding **MOODY EARLY CHILDHOOD CENTER**'s financial condition, results of operations, cash flows and other pertinent matters concerning **MOODY EARLY CHILDHOOD CENTER** operations. The Board shall receive summary reports at each meeting. The Superintendent may utilize summary and detailed reports and records to oversee **MOODY EARLY CHILDHOOD CENTER** finances, property and staff resources.
- (c) *Internal Control.* The Financial Management System shall include documented controls over assets, liabilities, appropriations, obligations, revenues, expenses, and cash flows to ensure that funds, property, staff resources and other tangible and intangible items of value are used to implement the **MOODY EARLY CHILDHOOD CENTER** program. The Financial Management System shall also include controls over budgeting, contract administration, financial accounting, financial reporting, grant administration, payroll and other **MOODY EARLY CHILDHOOD CENTER** functions. The Financial Management System shall include controls over records to demonstrate compliance with local policy and Federal and state legal requirements.
- (d) *Records.* The Financial Management System shall create and maintain financial accounting and other summary, detailed and source records that account for **MOODY EARLY CHILDHOOD CENTER**'s assets, liabilities, appropriations, obligations, revenues, expenses and cash flows. The records maintained shall identify the source and

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application of funds and the use, custodial assignment and location of property. The records maintained shall include sufficiently detailed source documents that function as the origin of the summary and detailed financial and other information disclosed to the public, oversight government agencies, the Board, the Superintendent and other interested parties.

SEC. 2. CHART OF ACCOUNTS.

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

Sec. 2.1. Required Account Codes.

MOODY EARLY CHILDHOOD CENTER shall utilize the account codes mandated in FASRG Module 11 to account for public funds and public property. As appropriate and necessary, the Superintendent may authorize the use of the local option codes and locally defined classifications provided in FASRG Module 11.

Sec. 2.2. Local Account Codes.

Within the mandated account code structure, the Superintendent may authorize the development and use of locally defined account codes that facilitate the administration and oversight of non-**MOODY EARLY CHILDHOOD CENTER** functions and activities and the use of local funds and property.

SEC. 3. OBLIGATIONS.

The Superintendent or designee shall authorize or cause to be authorized any obligation of public funds. Additionally, the Superintendent or designee shall prepare a financial accounting record(s) that accounts for any obligation of local or public funds through the execution of a contract or the issuance of a purchase order. In authorizing the obligation of local or public funds, the Superintendent or designee shall determine if the obligation was authorized by the Board in the approved budget, as amended, and through applicable Board policy or resolution.

SEC. 4. DISBURSEMENTS FOR GOODS AND SERVICES.

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

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Superintendent or designee shall obtain a sufficiently detailed, original third-party record identifying the goods received or services rendered.

SEC. 5. DISBURSEMENTS FOR EMPLOYMENT SERVICES.

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

SEC. 6. COMPETITIVE PROCUREMENT.

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

SEC. 7. CONTRACT ADMINISTRATION.

The Superintendent or designee shall maintain a contract administration process to ensure that contractors deliver goods or provide services in accordance with the terms, conditions, and other legal requirements of the applicable contract or purchase order.

SEC. 8. ADMINISTRATIVE PROCEDURES.

The Superintendent shall prepare administrative procedures as required to implement this policy.

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SEC. 1. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of MOODY EARLY CHILDHOOD CENTER doing business as MOODY EARLY CHILDHOOD CENTER (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

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

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

Sec. 2. APPLICABILITY OF POLICY.

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

Sec. 3. AUTHORITY OVER FISCAL MATTERS.

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

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Sec. 3.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,¹ interested² or related³ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 3.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

Sec. 4. GOOD STANDING.

To ensure that the School remains in good standing with its vendors and that its credit or financial ratings are not adversely affected, the Delegate or designee shall issue payments to vendors for invoiced amounts pursuant to this policy and to the agreed-upon terms and conditions noted on the purchase order, executed contract, or invoice.

Sec. 5. AUTHORIZED PAYMENTS FOR AMOUNTS DUE.⁴

Sec. 5.1. The Delegate or designee shall only disburse School funds to a vendor if the following conditions have been met.

(a) The invoice:

- (1) Fully identifies the vendor, including the vendor’s authorized representative, and said identifying information conforms to that on the purchase order issued by the School to the vendor and/or the executed contract;
- (2) Includes an invoice number and date;
- (3) Is addressed to the School, including the proper mailing address for accounts payable and the address to which goods and/or services were delivered;
- (4) References the purchase order number issued and/or contract number; and

¹ Tex. Ed. Code §12.1054; 19 TAC §§ 100.1131 through 100.1135

² 19 TAC §100.1047(f)

³ Tex. Ed. Code §12.1166

⁴ Tex. Ed. Code §12.115(a)(2)

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- (5) Delineates in sufficient detail the goods and/or services provided to the School, including the quantity and the date that the goods were delivered or the services were rendered;
- (b) As applicable, the vendor has filed:
- (1) Form W-9,
 - (2) Affidavit of Non-Collusion, Non-Conflict of Interest, and Anti-Lobbying,
 - (3) Felony Conviction Disclosure Statement,
 - (4) Criminal History Record Review Certification,
 - (5) Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transactions,
 - (6) Conflict of Interest Questionnaire (Form CIQ) and any related Conflict of Interest Statements (Form CIS) from officers, directors, employees or agents of the School,
 - (7) Child Support Certification (Form 1903), and
 - (8) Other affidavits, certifications and forms as required by applicable law;
- (c) School personnel have confirmed, in writing, that the goods and/or services delineated on the vendor’s invoice have in fact been received and there is no cause for dispute;
- (d) School personnel have confirmed, in writing, that the terms and conditions of a properly issued purchase order and/or the executed contract have been satisfied, including, but not limited to:
- (1) The conformance of the goods and/or services to the agreed-upon specifications;
 - (2) The quantity of goods and/or services ordered; and
 - (3) The agreed-upon price per unit;
- (e) The vendor did not levy a sales or other tax from which the School is exempt and did not charge a finance fee or other amount to which the School did not previously agree; and
- (f) The vendor has satisfactorily addressed any concerns or issues identified by School personnel regarding the goods and/or services received and/or the invoiced amount(s).

Sec. 5.2. If the requirements in Sec. 5.1 of this policy are met, the Delegate or designee may issue payment to the vendor pursuant to the terms set forth in the invoice or as previously agreed-upon in the purchase order or executed contract.

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Sec. 6. DEFECTIVE INVOICE.

The Delegate or designee shall return any invoice that fails to conform to the requirements of Sec. 5.1 of this policy. In doing so, the Delegate or designee shall issue written notice to the vendor along with the defective invoice describing the defect(s) and requesting the issuance of a new invoice and requiring that a revised due date for the invoiced amount(s) be provided.

Sec. 7. INVOICE REVIEW AND APPROVAL.⁵

Sec. 7.1. The Delegate or designee may only issue payment to a vendor for an invoice meeting the requirements of Sec. 5.1 of this policy after it has been reviewed and approved by the Delegate or designee. If the requirements of Sec. 5.1 have been satisfactorily addressed, the Delegate or designee may issue payment to the vendor in the most administratively expeditious manner if the invoice amount is less than \$1,000.

Sec. 7.2. The Delegate or designee shall have any invoices for construction services relating to a public works contract reviewed by the School's third-party architect, engineer, construction management consultant or other qualified advisor. The advisor shall provide a recommendation to the Delegate.

Sec. 8. PREPAID ITEMS.⁶

The Delegate or designee may prepay an amount to a vendor but must account for such prepaid items in accordance with generally accepted accounting principles, state and federal fiscal requirements, and Board policy. Generally, the Delegate or designee may only prepay an amount from funds appropriated by the Board for the current fiscal year.

Sec. 9. COMMUNICATION WITH VENDORS.

School personnel shall document all communications with vendors regarding their invoice(s) for any goods and/or services, including concerns relating to price, quality, quantity, type, and other agreed-upon terms or conditions.

Sec. 10. DISBURSEMENT FROM PROPER FUND SOURCE.⁷

The Delegate or designee shall disburse funds from a fund source to the vendor for an invoiced amount(s) if the goods and/or services received were:

⁵ Tex. Ed. Code §12.115(a)(2)

⁶ Tex. Ed. Code §§ 12.107(a) and 12.115(a)(2); 19 TAC §§ 100.1043(a) and 100.1047(b)

⁷ *Ibid.*

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- (a) For an activity authorized by applicable law and rule;
- (b) For an allowable use of funds, as established under applicable law and rule; and
- (c) In compliance with other applicable law, rule and policy.

Sec. 11. **DISBURSEMENT TO VENDORS.**

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

Sec. 12. **RECORDS.**⁸

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

Sec. 13. **TRAINING AND UPDATES.**²

The Delegate or designee shall properly train School officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep School officers and employees informed of any changes to this policy and related requirements.

Sec. 14. **ADMINISTRATIVE PROCEDURES.**¹⁰

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

⁸ Tex. Ed. Code §§ 12.1052 and 12.115(a)(2); 19 TAC §§ 100.1022(c)(1)(vi), 100.1032(2)(P) and 100.1203(a)(2)

⁹ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

¹⁰ Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is the governing authority and, as such, manages and directs the School's business and affairs through Board actions, resolutions and policy.

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Sec. 15. **DATE ADOPTED AND EFFECTIVE.**

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on MDY, and it became effective on MDY.

Sec. 16. **RETENTION.**¹¹

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter in accordance with state law.

Sec. 17. **CERTIFICATION.**

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to Accounts Payable, as originally adopted by the Board on MDY, which Policy is in full force and effect and has not been revoked or amended.

[INSERT NAME HERE.], Secretary

Date Certified

¹¹ Tex. Ed. Code §12.1052; 19 TAC §100.1203; See Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, §7.125(a)(1).

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PG-5.120: GRANT ACCOUNTING

Sec. 1. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of MOODY EARLY CHILDHOOD CENTER doing business as MOODY EARLY CHILDHOOD CENTER (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Education Code (“Tex. Ed. Code”) Sections 12.107(a), 12.115(a)(2) and 12.1053(b)(2);
- (b) Texas Business Organizations Code (“Tex. Bus. Org. Code”);
- (c) Texas Administrative Code, Title 19 (“19 TAC”), §100.1006;
- (d) United States Code, Title 20 (“20 USC”);
- (e) Code of Federal Regulations, Title 2 (“2 CFR”), Part 200;
- (f) Financial Accountability System Resource Guide (“FASRG”);
- (g) *Standards for Internal Control in the Federal Government*; and
- (h) *Government Auditing Standards*.

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

Sec. 2. AUTHORITY OVER FISCAL MATTERS.

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

Sec. 2.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,¹ interested² or related³ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

¹ Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

² 19 TAC § 100.1047(f)

³ Tex. Ed. Code § 12.1166

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Sec. 2.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

Sec. 3. **APPLICABILITY OF POLICY.**

This policy applies to state, federal, and philanthropic grants.

Sec. 4. **GRANT ACCOUNTING RECORDS.**

For each grant, the Delegate or designee shall maintain the following records:

- (a) Notice of Grant Award (NOGA), Grant Award Notice (GAN), or private grant award letter.
- (b) The approved grant application, including guidelines in effect during the grant period, the budgeted, and amendments.
- (c) Communications with grantor, including call logs, emails, and negotiation notes.
- (d) Grant expenditure, evaluation, and programmatic reports.
- (e) All accounting, administrative, business, charge or credit, contract, finance, disbursement, payroll, personnel, procurement, time accounting, and other records that support the use of grant funds.

Sec. 5. **RESPONSIBILITY FOR GRANT ADMINISTRATION.**

Sec. 5.1. **Financial Management.** The Delegate or designee shall bear responsibility for the following financial management activities:

- (a) Maintaining fiduciary and financial responsibility over each grant.
- (b) Maintaining accurate and complete contemporaneous financial accounting records for each grant, including the use of grant funds and property and the maintenance of employee time accounting records.
- (c) Reviewing and approving the budget for each grant, including budget amendments.
- (d) Ensuring compliance with applicable law, rule, and grant requirement governing grant financial management, including the appropriate expenditure of grant funds.

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- (e) Ensuring the lawful procurement of goods and services with grant funds.
- (f) Timely preparing and submitting accurate and complete expense reports for the reimbursement or advanced payment of grant expenses from the grantor.
- (g) Perform other duties and responsibilities necessary to ensure fiscal compliance with applicable law, rule and grant requirement.

Sec. 5.2. Program Management. Each grant shall have a manager assigned who shall be responsible for:

- (a) Initiating, planning, and preparing grant applications, including conducting a needs assessment, developing goals, strategies, and performance measures, and preparing the grant budget.
- (b) Monitoring grant program implementation to ensure that grant terms and conditions are met and that grant goals are attained.
- (c) Ensuring compliance with applicable law, rule, and grant requirement governing grant program activities.
- (d) Identify, prepare and propose amendments to the approved grant program to address changed circumstances.
- (e) Monitoring, assessing, and ensuring that individuals and entities awarded a contract supported with grant funds comply with the contract terms and conditions.
- (f) Initiating, planning, and conducting evaluations, surveys and studies to recommend adjustments to the grant program and to submit required evaluations and reports to the grantor.
- (g) Preparing and submitting grant reports.
- (h) Perform other duties and responsibilities necessary to yield a successful outcome for the grant program.

Sec. 5.3. Audits. The Internal Audits Director shall be responsible for:

- (a) Liaising with external auditors to coordinate the conduct of the annual audit and other audits.

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- (b) Reporting to the Board, the Audit Committee and the Finance Committee the results of the annual and other audits.

Sec. 6. ALLOWABLE AND PROHIBITED USES OF FUNDS.

Sec. 6.1. In General.

See Board Policy relating to the Allowable and Prohibited Uses of Funds.

Sec. 6.2. Prudent Person Rule.

See Sec. 7 of the Controlling Policy.

Sec. 6.3. Abuse and Waste Prohibited.

See Sec. 8 of the Controlling Policy.

Sec. 6.4. Requirements Specific to Federal Funds.

Sec. 6.4.1. *Factors Affecting Allowability of Costs.*⁴

School officers and employees shall ensure that:

- (a) The expenditure of funds is reasonable and necessary for the performance of the grant program.
- (b) Costs are allocable to the grant program, in accordance with applicable legal requirements.
- (c) Federal funds are used to support legally authorized activities.
- (d) Federal funds are used in a manner consistent with School policies and procedures that apply uniformly to both federally-financed and other activities of School.
- (e) Costs are incurred during the approved budget period.
- (f) The use of funds is adequately documented.
- (g) Costs and expenses incurred conform with the Federal Cost Principles.

⁴ 2 CFR §200.403

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Sec. 6.4.2. ***Reasonable Costs.***⁵

Sec. 6.4.2.1. **In determining if an expenditure or cost is reasonable, School officers and employees shall adhere to the prudent person rule.**

Sec. 6.4.2.2. **In determining if a cost is reasonable, School officers and employees shall consider the following factors.**

- (a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the School or the proper and efficient performance of the grant program. Importantly, School officers and staff shall adhere to the accepted practices of Texas public schools relating to the use of grant funds.
- (b) The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state, local and other laws and regulations; and terms and conditions of the grant.
- (c) Market prices for comparable goods or services for the geographic area.
- (d) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the School, its employees, where applicable its students, the public at large, and the Federal Government.
- (e) Whether the School significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the cost to the grant program.

Sec. 6.4.3. ***Standards for Documentation of Personnel Expenses.***⁶

Sec. 6.4.3.1. **To support payroll costs charged to a grant, the Delegate or designee shall prepare or cause to be prepared records that accurately reflect the work performed by employees and that conform to the following requirements:**

- (a) Are supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated.
- (b) Are incorporated into the School's official records.

⁵ 2 CFR §200.404

⁶ 2 CFR § 200.430(i)

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- (c) Reasonably reflect the total activity for which an employee is compensated by the School, not exceeding 100% of compensated activities.
- (d) Encompass both federally-assisted and all other activities compensated by the School on an integrated basis.
- (e) Comply with the School’s established accounting policies and practices.
- (f) Support the distribution of the employee’s salary or wages among specific activities or cost objectives if the employee works on:
 - (1) More than one Federal award;
 - (2) A Federal award and non-Federal award;
 - (3) An indirect cost activity and a direct cost activity;
 - (4) Two or more indirect activities which are allocated using different allocation bases; or
 - (5) An unallowable activity and a direct or indirect cost activity.

Sec. 6.4.3.2. For record keeping purposes, the Delegate or designee shall not use budget estimates (i.e., estimates determined before the services are performed) alone as these do not qualify as support for charges to a Federal grant.

Sec. 6.4.3.3. Sec. 6.4.3.2 of this policy notwithstanding., the Delegate or designee may use budget estimates for interim accounting purposes, provided that the following requirements are met:

- (a) The system for establishing the estimates produces reasonable approximations of the activity actually performed.
- (b) Significant changes in the corresponding work activity are identified and entered into the records in a timely manner.⁷
- (c) The School’s system of internal controls includes processes to review after-the-fact interim charges made to a Federal grant based on budget estimates.

⁷ Short term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable during the fiscal year.

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- (d) All necessary adjustments are made such that the final amount charged to the Federal grant is accurate, allowable, and properly allocated.

Sec. 6.4.4. *General Costs.*⁸

Federal funds may not be used for general costs of the School normally incurred to provide instruction to students at one or more elementary or secondary grade levels as provided by the charter, unless provided for as a direct cost under a Federal program statute or regulation.

Sec. 7. SUPPLEMENT NOT SUPPLANT.⁹

In accordance with applicable Federal law for the pertinent Federal grant program, the Delegate or designee shall ensure that the School uses federal grant funds to supplement and, not supplant, federal, state, and local funds, as applicable to the federal grant program.

Sec. 8. CASH MANAGEMENT.¹⁰

The Delegate or designee shall implement a system of internal controls that provides for the periodic and timely draw down of grant funds to reasonably coincide with the disbursement of School funds to pay for grant expenses. Importantly, with respect to Federal grants, the Delegate or designee must minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the School. The Delegate or designee shall maintain a record of all draw down requests and the corresponding costs charged to the grant program.

Sec. 9. FINANCIAL OBLIGATIONS.

Sec. 9.1. With respect to the use of grant funds, financial obligations are orders issued for property and services, contracts made, and similar transactions that require payment.¹¹ The Delegate or designee shall ensure that all financial obligations are made in accordance with applicable law and rule, are recognized when made, and are recorded in the School's financial accounting records as encumbrances.¹²

⁸ 2 CFR § 200.444(a)

⁹ 20 USC §§ 1413(a)(2)(A)(ii) and 6321(b)

¹⁰ 2 CFR §200.305(b)

¹¹ 2 CFR §200.1

¹² 2 CFR §200.302(b)(2)-(3)

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Sec. 10. **TRAINING AND UPDATES.**¹³

The Delegate or designee shall properly train officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep officers and employees informed of any changes to this policy and related requirements.

Sec. 11. **ADMINISTRATIVE PROCEDURES.**¹⁴

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

Sec. 12. **DATE ADOPTED AND EFFECTIVE.**

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on MDY and became effective on MDY.

Sec. 13. **RETENTION.**¹⁵

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter.

¹³ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

¹⁴ Tex. Ed. Code § 12.115(a)(2); FASRG Module 2; 2 CFR § 200.303. Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in School's Articles of Incorporation and Bylaws and in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is the School's governing authority and, as such, manages and directs School's business and affairs through Board actions, resolutions and policy.

¹⁵ Tex. Ed. Code § 12.1052; 19 TAC § 100.1203; *See* Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, § 7.125(a)(1).

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Sec. 14. **CERTIFICATION.**

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to Grants Accounting, as originally adopted by the Board on MDY, which Policy, as amended, is in full force and effect and has not been revoked or amended.

[INSERT NAME HERE.], Secretary

Date Certified

DISCLAIMER

This template provides Texas open-enrollment charter holders and their open-enrollment charter schools with a sample policy pertaining to travel. The policy included in this template is not all-inclusive and only addresses the minimum requirements established by applicable or relevant legal requirements and best practice. Consequently, users may need to include additional policy statements addressing their unique local requirements. Lastly, users should consult with a legal or other qualified advisor to guide them in the development and maintenance of a policy that is consistent with the applicable or relevant legal requirements addressed in this template.

NOT LEGAL ADVICE. As legal advice must be tailored to the specific circumstances of each case, nothing provided herein should be used as a substitute for advice of competent counsel. The statements in this template do not constitute legal advice, do not necessarily reflect the opinions of Schulman, Lopez, Hoffer & Adelstein, LLP or any of its lawyers or clients, and are not guaranteed to be correct, complete or up-to-date. Further, if your corporation and its charter school(s) are not clients of the Firm, this template is not intended to create, and does not create, an attorney-client relationship between your corporation and its charter school(s) and Schulman, Lopez, Hoffer & Adelstein, LLP; commensurately, you should not act or rely on any information in this template without consulting your own legal and other qualified advisors. Accordingly, please do not send the Firm any information about any legal matter, which may involve your corporation or your charter school unless or until you have received a written statement from the Firm in the form of an engagement letter confirming that we represent you.

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Sec. 1. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of MOODY EARLY CHILDHOOD CENTER doing business as MOODY EARLY CHILDHOOD CENTER (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

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

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

Sec. 2. AUTHORITY OVER FISCAL MATTERS.

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

Sec. 2.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,¹ interested² or related³ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 2.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

Sec. 3. DEFINITIONS.

For purposes of this policy, the following terms have the meanings provided in this Sec. 3.

¹ Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

² 19 TAC § 100.1047(f)

³ Tex. Ed. Code § 12.1166

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Sec. 3.1. *Commercial lodging establishment* means a motel, hotel, inn, apartment, house or similar establishment that provides lodging to the public for pay.⁴

Sec. 3.2. *Duty point* means the destination, other than a place of employment, to which a School employee travels to conduct official School business.⁵

Sec. 3.3. *Incidental expense* means an expense incurred while traveling on official state business⁶ except for a meal, lodging or transportation expense, a personal expense, an expense that an individual would incur regardless of whether the individual were traveling on official state business, a tip or a gratuity.⁷ *Incidental expense* also excludes expenses for laundry, cleaning and pressing of clothing, lodging taxes, costs of telegrams or telephone calls, transportation between places of lodging or business and places where meals are taken, or the mailing cost of filing travel vouchers and paying employer-sponsored charge card billings.⁸

Sec. 3.4. *Place of employment* means the office or other physical location at which a School employee most frequently conducts official School business.⁹ Additionally, the employee's place of employment includes the entire city or general area in which the employee's office or other physical location is located.¹⁰ If a School employee has more than one place of work, the following factors are determinative of which one is the employee's main place of work:

- (a) The total time the employee ordinarily spends at each place;
- (b) The level of the employee's business activity in each place; and
- (c) Whether the employee's income from each place is significant or insignificant.¹¹

Sec. 3.5. *Sponsor* means a School employee who is primarily responsible for student travel and includes teachers and coaches.

Sec. 4. ALLOWABLE AND PROHIBITED USES OF FUNDS.

See the Board's Policy relating to Allowable and Prohibited Uses of Funds.

Sec. 5. PRUDENT PERSON RULE.

See Sec. 7 of the Controlling Policy.

⁴ Textravel (General ; Definitions) (December 28, 2021)

⁵ *Ibid.*

⁶ Examples include gasoline for a rental car, airport or other parking, toll road fees, and fees for business-related long distance calls.

⁷ Textravel (General; Definitions) (December 28, 2021)

⁸ IRS Publication 463, Chapter 1, Travel (Standard Meal Allowance).

⁹ *Ibid.*

¹⁰ IRS Publication 463, Chapter 1, Travel (Tax Home).

¹¹ IRS Publication 463, Chapter 1, Travel (Tax Home; Main place of business or work).

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Sec. 6. ABUSE AND WASTE PROHIBITED.

See Sec. 8 of the Controlling Policy. Importantly, School employees must use discretion when making travel arrangements to conserve the School’s limited financial and other resources.

Sec. 7. SOCIAL ACTIVITIES.

See Sec. 12(c) of the Board’s Policy relating to Allowable and Prohibited Uses of Funds.

Sec. 8. GENERAL.

Sec. 8.1. The School shall reimburse employees for reasonable and necessary travel expenses that do not exceed the maximum amounts allowed under this policy. Moreover, the School shall only reimburse employees for travel expenses incurred only if the purpose of the travel clearly involves official School business as authorized under applicable legal authority.¹²

Sec. 8.2. The School shall minimize the amount of travel expenses reimbursed by ensuring that each travel arrangement is the most cost-effective considering all relevant circumstances.¹³

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

Sec. 8.4. Sec. 8.3 of this policy notwithstanding, the School shall reimburse employees for costs incurred for which flexibility could not be arranged and resulting from a sudden and unanticipated circumstance or event. *See* Sec. 22 of this policy.

Sec. 8.5. School employees should select the most cost effective, and not the most convenient, method of transportation available.¹⁴

Sec. 8.6. School employees shall not conduct personal travel to coincide with business travel and vice versa.

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

Sec. 8.8. School employees must submit their travel reimbursement requests within ten (10) business days after the date they return from conducting official School business.

¹² Textravel (General; Official state business) (December 28, 2021)

¹³ Textravel (General; Conservation of state funds) (December 28, 2021)

¹⁴ Textravel (Transportation) (December 28, 2021).

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

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

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

Sec. 8.12. The School shall not reimburse any person¹⁵ who is not an employee and who incurs travel expenses except as agreed-upon in a written, fully executed agreement between the person and the School.

Sec. 9. STUDENT TRAVEL.

Sec. 9.1. Purpose of Off-Campus. Campus principals and sponsors shall plan any off-campus activity to align with classroom instruction or a goal and strategy adopted in the campus instructional plan.

Sec. 9.2. Instructional Trips. Sponsors shall obtain the Board's approval for any activity conducted off campus during an instructional day.¹⁶ Campus principals and sponsors shall describe the purpose of instructional trips and how said trips enhance student learning in the pertinent instructional plan. For purposes of this policy, instructional trips conforming with this Sec. 9.2 and taken during the scheduled class day or course period shall be deemed cocurricular activities.¹⁷

Sec. 9.3. Extracurricular Trips. Sponsors shall obtain the Board's approval for any activity conducted off campus outside of the instructional day. Upon approval, students and sponsors may travel to actively participate in an extracurricular activity,¹⁸ including club activities, contests, demonstrations, and public performances.

Sec. 9.4. Duration of Trips. Generally, campus principals and sponsors shall commence and conclude travel for any activity conducted off campus on the same day. The Delegate shall approve any trips requiring an overnight stay.

¹⁵ For purposes of this policy, *person* means a natural person or a corporation, partnership, limited liability company, business trust, trust, association, or other organization, estate, government or governmental subdivision or agency, or other legal entity, or a series of a domestic limited liability company or foreign entity.

¹⁶ Texas Administrative Code, Title 19, §129.21(j)(1)

¹⁷ See Sec. 4.1 of the Board's Policy relating to Activity Funds.

¹⁸ See Sec. 4.2 of the Board's Policy relating to Activity Funds.

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Sec. 9.5. Out-of-State and Out-of-Country Trips. School employees shall obtain the Board's approval for any out-of-state and out-of-country travel before making any arrangements.

Sec. 9.6. Written Consent Required. Students shall not be allowed to participate in any activities that require travel of any kind without the written consent of the student's parent or legal guardian.

Sec. 9.7. Consent Form. The School shall use a consent form that includes all of the following information:

- (a) Student's name.
- (b) Student's campus, classroom, and teacher's name.
- (c) Name of student's parent or legal guardian authorizing the student's participation and emergency contact information.
- (d) Description of activity, including destination, itinerary, and mode of transportation.
- (e) Costs and expenses (if any).
- (f) Authorization for medical emergency.
- (g) Hold harmless, indemnification, or release clause.

Sec. 9.8. Lodging. Campus principals and sponsors shall arrange for sponsors, students and chaperones to stay overnight at a hotel closest to the off-campus activity. If a student(s) is eliminated from continued participation in the off-campus activity, the sponsor shall ensure that the student(s) returns home and cancel any lodging arrangements.

Sec. 9.9. Required Documentation. Sponsors shall submit an internal accounting record disclosing the travel expenses paid and the original, third-party itemized receipts for any travel expenses paid.

Sec. 9.10. Meal Receipts. The Delegate may require original, third-party itemized receipts for any meal expenses.

Sec. 10. TRAVEL BY COMMERCIAL AIR TRANSPORTATION.¹⁹

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

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

¹⁹ Texttravel (Transportation; Commercial air transportation) (December 28, 2021)

Sec. 11. **TRAVEL BY GROUND TRANSPORTATION.**

The School shall reimburse employees only for the following modes of ground transportation.

Sec. 11.1. **Employer Provided Vehicle.** The School may provide an employee with one of its vehicles to be used exclusively for official business travel. The School shall only provide such a vehicle for the period that the employee is required to travel for official business.

Sec. 11.2. **Personal Vehicle.**²⁰

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

Sec. 11.2.2. The School may reimburse an employee for the use of their personal vehicle in an amount not to exceed the maximum mileage reimbursement rate approved by the Texas Comptroller of Public Accounts applied to the total number of miles traveled for official business.

Sec. 11.2.3. The total number of miles traveled for official business shall be based upon the most cost-effective, reasonably safe route between an employee's origin of travel and the final duty point.

Sec. 11.2.4. The School shall reimburse an employee for the use of their personal vehicle to travel from their residence or place of employment to the airport if they commence their travel outside of their scheduled work hours. The School shall reimburse the employee for the cost of one (1) trip to and from the airport.

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

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

Sec. 11.3. **Rental Vehicles.**

Sec. 11.3.1. School employees may rent vehicles to conduct official School business provided that the travel expense does not exceed the cost for any other mode of transportation.

Sec. 11.3.2. School employees traveling together may rent a standard-sized or full-size car. School employees traveling by themselves may only rent an economy or intermediate-sized car. School employees shall not rent sport utility, premium, elite, luxury or other similarly classed vehicles.

²⁰ Textravel (Transportation; Mileage in personal vehicle) (December 28, 2021).

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

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

Sec. 11.4. Other. The School may reimburse an employee for the actual cost of transportation by bus, limousine, network transportation driver (e.g., Uber), taxi, or other similar mode of transportation if incurred to conduct official business and if it was the most cost-effective mode of transportation available considering all relevant circumstances.²¹

Sec. 12. LODGING.

Sec. 12.1.1. The School shall reimburse an employee for the actual cost incurred at a commercial lodging establishment not to exceed the maximum lodging reimbursement rate authorized by the Texas Comptroller of Public Accounts,²² except as provided under Sec. 15.2 of this policy.

Sec. 12.1.2. The School may reimburse an employee for actual lodging expenses incurred for no more than the night before official business begins and the night after official business ends.²³

Sec. 12.1.3. School employees attending conferences and training may stay at the conference hotel or conference partner hotels. However, the School shall only reimburse the employee as set forth in Sec. 12.1.1 of this policy.

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

Sec. 13. MEALS.²⁴

Sec. 13.1.1. The School shall reimburse an employee for actual meal expenses incurred, not to exceed the maximum meal reimbursement rate for the duty point authorized by the Texas Comptroller of Public Accounts, on a day that the employee conducts official School business outside of the employee’s place of employment, as defined at Sec. 3.2 of this policy, for at least six (6) consecutive hours.

²¹ Textravel (Transportation; Mass transit, taxi or limousine) (December 28, 2021)

²² Textravel (Meals and Lodging; Lodging; Lodging reimbursements) (December 28, 2021)

²³ Textravel (Meals and Lodging; Lodging) (December 28, 2021)

²⁴ Textravel (Meals) (December 28, 2021)

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

Sec. 13.1.3. An employee whose duties require the employee to travel outside the employee's place of employment without an overnight stay away from the employee's place of employment may be reimbursed for the actual cost of the employee's meals not to exceed thirty-six dollars (\$36.00).²⁵

Sec. 14. **MAXIMUM ALLOWABLE TRAVEL RATES.**

Sec. 14.1. School officers, as defined in Sec. 5 of the Controlling Policy, and employees shall adhere to and shall not exceed the maximum allowable travel rates authorized by the Texas Comptroller of Public Accounts.²⁶

Sec. 14.2. Upon receipt of a written request, the Delegate may approve a higher lodging rate if it is determined that local conditions necessitate an increase in the lodging rate for a particular location.²⁷

Sec. 15. **ADVANCE.**

Sec. 15.1. Upon receipt of a written request, the Delegate may authorize that an employee receive the estimated travel expenses in advance.

Sec. 15.2. The employee shall submit a travel expense report itemizing the use of the advanced payment.

Sec. 15.3. The School may reimburse the employee any additional travel expenses incurred provided that the amounts paid do not exceed the maximum allowable travel rates and are supported in accordance with Sec. 17 of this policy.

Sec. 15.4. The employee shall refund to the School any advanced payment received in excess of the total travel expenses incurred, paid and documented by the employee.

Sec. 15.5. The School shall report to the IRS any amount advanced to the employee as taxable income if the employee fails to comply with this Sec. 16.

²⁵ General Appropriations Act, Article IX, Part 5, Sec. 5.06(b).

²⁶ General Appropriations Act, Article IX, Part 5, Sec. 5.06(a)(1).

²⁷ Texttravel (Meals and Lodging; Lodging; Requesting a higher maximum lodging reimbursement rate) (December 28, 2021)

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Sec. 16. REQUEST FOR REIMBURSEMENT OF TRAVEL EXPENSES.

Sec. 16.1. Required Filing. Upon their return to their place of employment, employees shall file a request for reimbursement of travel expenses form and the required supporting documentation, as established under Sec. 17 of this policy, except as otherwise provided below, within ten (10) business days.

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

- (a) The employee's full, legal name, identification number, and place of employment.
- (b) The travel destination and dates of travel.
- (c) The actual amounts expended by the employee for lodging, meals, mileage for personal vehicle driven, parking, transportation, and other travel-related expenses.
- (d) The amount of the travel advance received by the employee, if any, and a reconciliation of the travel advance amount with the actual travel expenses incurred.
- (e) A statement certifying that the employee's request is accurate, complete and true.
- (f) A statement certifying that the supporting documents attached to the form are accurate, complete, true and unaltered records.
- (g) The employee's signature and date of signature.

Sec. 17. REQUIRED SUPPORTING DOCUMENTATION.²⁸

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

Sec. 17.2. Duplicate Record. Occasionally, an employee may submit a copy of an original record provided that a signed and dated statement is attached to the replica representing that the duplicated record is an accurate, complete, and true facsimile of the original record and that the copy is not a fraudulent version of the original record.

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

Sec. 17.4. Failure to Attach. The Delegate or designee shall not reimburse an employee for an expense if the employee does not attach a record conforming to the requirements of this Sec. 17.

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

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

- (a) the name of the employee and airline,
- (b) the ticket number,
- (c) the class of transportation,
- (d) the travel dates,
- (e) the amount of the airfare, and
- (f) the origin and destination of each flight.²⁹

Sec. 17.6. Employer Provided Vehicle. An employee shall maintain and provide a log that includes the following information:

- (a) Employee's full, legal name.
- (b) Employee's place of employment.
- (c) Vehicle identification number and license plate number.
- (d) For each date that the vehicle is driven:
 - (1) Date that vehicle was used;
 - (2) Full description of the duty point or other destination;
 - (3) Business purpose of vehicle use;
 - (4) Starting odometer reading;
 - (5) Ending odometer reading; and
 - (6) Miles driven.
- (e) Statement attesting to the accuracy and completeness of the information recorded.
- (f) Employee's signature.
- (g) Date employee signed the log.³⁰

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

Sec. 17.8. Rental Vehicles. An employee shall provide a receipt and/or rental contract that includes the following information:

- (a) the name of the motor vehicle rental company,
- (b) the name of the renter,
- (c) the starting and ending dates of the rental, and
- (d) an itemization of expenses incurred.

²⁹ Textravel (Documentation Requirements – Transportation; Commercial air transportation) (December 28, 2021)

³⁰ IRS Publication 463, Chapter 5, Recordkeeping.

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

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

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

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

Sec. 17.11. Incidental Expenses. For an incidental expense exceeding five dollars (\$5.00), an employee shall provide an original, itemized third-party receipt.³¹ Otherwise, an employee may provide an itemization of the expense incurred.³²

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

Sec. 18. **REVIEW BY DELEGATE.**

Upon receiving an employee's Request for Reimbursement of Travel Expenses form and required supporting documentation, the Delegate or designee shall review and approve or disapprove an employee's request for reimbursement and issue a final determination of the total reimbursement amount due to the employee. If disapproved, the Delegate or designee shall inform the employee in writing of the amount(s) that were disallowed and the basis for the disallowance.

Sec. 19. **REVIEW BY BOARD.**

Without exception, the Board shall review and approve or disapprove an officer's³³ Request for Reimbursement of Travel Expenses form and required supporting documentation. If

³¹ IRS Publication 463, Chapter 1, Travel (Standard Meal Allowance).

³² Texttravel (Documentation Requirements; Incidental Expenses) (December 28, 2021)

³³ See Sec. 5 of the Controlling Policy.

disapproved, the Board’s designee shall inform the officer in writing of the amount(s) that were disallowed and the basis for the disallowance.

Sec. 20. **APPLICABILITY OF STATE TRAVEL RULES.**

Except as otherwise established in this policy, the travel requirements promulgated by the Texas Comptroller of Public Accounts shall not apply.

Sec. 21. **ELIGIBLE EXPENSES.**³⁴

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

- (a) Common carrier fares for coach or regular passenger seating, including the cost of transportation via airplane, bus, limousine, network transportation driver (e.g., Uber), taxi, and train.
- (b) Charges for excessive baggage as long as the travel is related to state business and the charges are reasonable and the number of bags was necessary.
- (c) Commercial lodging rates up to the maximum allowable rate.
- (d) Hotel occupancy taxes.
- (e) Rental car rate, applicable taxes, and mandatory charges.
- (f) Collision damage waiver or loss damage waiver if not included in the School’s insurance policies.
- (g) Maximum mileage reimbursement rate applied to the actual mileage driven to conduct official School business.
- (h) Actual cost of meals not to exceed the maximum allowable rate.
- (i) Actual cost of incidentals for which a record conforming to Sec. 17.11 of this policy is provided.

Sec. 21.2. Also, *see* Sec. 4, 5 and 6 of this policy.

Sec. 22. **CANCELLATION CHARGES.**³⁵

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

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

³⁴ Textravel (December 28, 2021)

³⁵ Textravel (Miscellaneous Provisions; Cancellation charges) (December 28, 2021)

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Sec. 23. INELIGIBLE EXPENSES.

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

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

- (a) Alcoholic beverages.
- (b) Business or first-class seating.
- (c) Entertainment of any kind including, but not limited to, sporting or music venues. *See* Sec. 7 of this policy.
- (d) Fines, including, but not limited to, fines assessed for parking or moving violations.
- (e) Gratuities or tips.
- (f) Membership fees.
- (g) Mileage for commuting between an employee's private residence and place of employment.
- (h) Personal travel costs, including personal travel that is coordinated with travel relating to official School business.
- (i) Reading materials.
- (j) Room service, laundry, personal phone calls, internet service for personal use, in-room movies, etc.
- (k) Toiletries.
- (l) Travel insurance.
- (m) Travel for spouses, family members, the employee's companion(s), the employee's children, non-charter school employees, or other acquaintances, associates or guests.
- (n) Valet services.

Sec. 23.3. Also, *see* Sec. 4, 5 and 6 of this policy.

Sec. 24. TRAINING AND UPDATES.³⁶

The Delegate or designee shall properly train officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep officers and employees informed of any changes to this policy and related requirements.

³⁶ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

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Sec. 25. **ADMINISTRATIVE PROCEDURES.**³⁷

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

Sec. 26. **DATE ADOPTED AND EFFECTIVE.**

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on MDY and became effective on MDY.

Sec. 27. **RETENTION.**³⁸

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter.

Sec. 28. **CERTIFICATION.**

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to Travel, as originally adopted by the Board on MDY, which Policy, as amended, is in full force and effect and has not been revoked or amended.

³⁷ Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in School's Articles of Incorporation and Bylaws and in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is School's governing authority and, as such, manages and directs School's business and affairs through Board actions, resolutions and policy.

³⁸ Tex. Ed. Code §12.1052; 19 TAC §100.1203; See Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, §7.125(a)(1).

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[INSERT NAME HERE.], Secretary

Date Certified

DATE ISSUED: May, 2023

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DISCLAIMER

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**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
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Sec. 1. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of MOODY EARLY CHILDHOOD CENTER doing business as MOODY EARLY CHILDHOOD CENTER (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

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

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

Sec. 2. APPLICABILITY OF POLICY.

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

Sec. 3. AUTHORITY OVER FISCAL MATTERS.

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

Sec. 3.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,¹ interested² or related³ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

¹ Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

² 19 TAC § 100.1047(f)

³ Tex. Ed. Code § 12.1166

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Sec. 3.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

Sec. 4. **DEFINITIONS.**

Sec. 4.1. **Cocurricular Activities.**⁴

“Cocurricular Activities” are School sponsored activities that directly add value to classroom instruction and curriculum.

Sec. 4.2. **Extracurricular Activities.**⁵

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

Sec. 4.3. **Student Activity Funds.**⁶

“Student Activity Funds” are comprised of monies raised and collected by students through School approved fundraising activities, club dues, donations, or other School approved activities. As the monies raised are the property of the students, the student organization must approve student activity funds for the benefit of the student organization’s membership.

Sec. 4.4. **Campus or School Activity Funds.**⁷

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

Sec. 4.5. **Staff Activity Funds.**

“Staff Activity Funds” are comprised of monies contributed by employees to be used for the benefit of campus or district staff.

⁴ FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H.

⁵ FASRG, Module 3, Special Supplement—Nonprofit Charter School Chart of Accounts, Update 17 (2020), page 53.

⁶ FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.1.2).

⁷ FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.1.1).

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Sec. 5. ACTIVITY FUND ACCOUNTING.

Sec. 5.1. The Delegate or designee shall account for the receipt and use of fundraising proceeds as a campus, School, staff, or student activity fund, as applicable.

Sec. 5.2. The Delegate or designee shall maintain control of and disburse activity funds through the School's Business Office.⁸

Sec. 5.3. To enable campuses and student organizations to acquire goods and services with their available campus and student activity funds, the Delegate or designee shall facilitate a process whereby campuses and student organizations may acquire goods and services as and when needed.⁹

Sec. 5.4. The School shall account for all funds collected by staff from students as student activity funds.¹⁰

Sec. 5.5. The School shall not account for funds collected, disbursed, and controlled by parents, patrons, or alumni organizations because these funds are not activity funds.¹¹

Sec. 5.6. Organizations controlled by parents, patrons, or alumni are separate legal entities from the School and shall maintain separate and distinct accounting, auditing, budgeting, reporting, and recordkeeping systems from those recording the business activities of the charter school.¹²

Sec. 6. RESPONSIBILITY FOR ACTIVITY FUNDS.¹³

Sec. 6.1. Delegate.

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

Sec. 6.1.2. The Delegate or designee shall approve any staff or student organizations that raise funds. Designees shall inform the Delegate of any staff or student organizations that they approve.

⁸ FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.2.4).

⁹ *Ibid.*

¹⁰ FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H.

¹¹ FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.1).

¹² 19 TAC §100.1047(e)

¹³ FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.2.3).

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Sec. 6.2. Designees.

Designated School and campus staff are responsible for:

- (a) Proper collection, disbursement, and control of activity funds.
- (b) Safekeeping of the activity funds, which includes depositing and securing the funds.
- (c) Accounting, which includes, but is not limited to, creating and maintaining cash receipt records and reconciling bank statements.
- (d) Record keeping, which requires charter schools to keep activity fund records for the same length of time as other accounting records.
- (e) Conducting annual audits of activity funds by using an internal or external auditor.
- (f) Ensuring activity fund purchases comply with the School's purchasing procedures and applicable legal requirements.

Sec. 6.3. Sponsors.

The sponsor of each student organization, including student groups and clubs, is responsible for supervising all activities of the organization. This responsibility includes the students' adoption and maintenance of a charter, developing fundraising plans, monitoring the financial position of the activity fund, reviewing the activity fund financial statements, and safekeeping activity fund money until it is deposited by the School and other fiduciary responsibilities.

Sec. 7. BANK ACCOUNT.

The School shall establish and maintain a single bank account for all activity funds. The activity funds' bank account must be reconciled monthly.

Sec. 8. ACTIVITY FUND RECEIPTS.

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

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Sec. 9. DISBURSEMENTS FROM STUDENT ACTIVITY FUNDS.

Student activity funds may be expended pursuant to direction from the student group provided that the expenditure is legal and that the vendor and purchase has been authorized. All expenditures drawn from student activity funds must be approved by the designated student officer, sponsor, and campus principal.

Sec. 10. FUNDRAISING.

Sec. 10.1. When fundraising activities are in the name of the School, all funds raised become School funds, belonging to the campus, School or staff or student organization responsible for raising the money.¹⁴

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

Sec. 10.3. Campus principals and sponsors shall submit an annual plan for fundraising to the Delegate or designee which lists the organizations which will engage in fundraising activities and the intended use of the funds. At the end of the school year, campus principals and sponsors shall report the outcome of each fundraising activity and how the funds were used.

Sec. 10.4. Sponsors must keep control of the merchandise, petty cash funds, and fundraising proceeds and maintain records.

Sec. 10.5. Raffles and gambling are prohibited.

Sec. 10.6. The Delegate or designee must collect any sales taxes due on all sales which are not specifically exempted.

Sec. 11. CONTRIBUTIONS.

Campuses may receive contributions from donors in the form of cash or check. The School shall issue a tax-exempt letter to a donor upon request. Refer to the Board's Policy for Gift Acceptance for additional requirements.

¹⁴ FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.1.3).

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Sec. 12. **ACTIVITY FUND ROLL FORWARD.**

At the end of each fiscal year, any account balance remaining in a student activity fund shall roll forward to the following fiscal year.

Sec. 13. **AUDITS.¹⁵**

Sec. 13.1. Campus principals and sponsors must be prepared to have their activity funds audited at least annually.

Sec. 13.2. The Delegate or designee shall require an audit when a change in campus principal, campus finance staff, or sponsor occurs.

Sec. 14. **TRAINING AND UPDATES.¹⁶**

The Delegate or designee shall properly train officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep officers and employees informed of any changes to this policy and related requirements.

Sec. 15. **ADMINISTRATIVE PROCEDURES.¹⁷**

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

¹⁵ FASRG, Financial Accounting and Reporting Appendices, Update 17 (2020), Appendix H (H.2.3).

¹⁶ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

¹⁷ Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in School’s Articles of Incorporation and Bylaws and in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is School’s governing authority and, as such, manages and directs School’s business and affairs through Board actions, resolutions and policy.

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Sec. 16. **DATED ADOPTED AND EFFECTIVE.**

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on MDY and became effective on MDY.

Sec. 17. **RETENTION.**¹⁸

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter.

SEC. 18. CERTIFICATION.

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to Activity Funds, as originally adopted by the Board on MDY, which Policy, as amended, is in full force and effect and has not been revoked or amended.

[INSERT NAME HERE.], Secretary

Date Certified

¹⁸ Tex. Ed. Code §12.1052; 19 TAC §100.1203; See Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, §7.125(a)(1).

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PG-5.190: FINANCIAL REPORTING

Sec. 1. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of MOODY EARLY CHILDHOOD CENTER doing business as MOODY EARLY CHILDHOOD CENTER (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

- (a) Texas Education Code (“Tex. Ed. Code”) Sections 12.115(a)(2) and 12.1162(a)(2);
- (b) Texas Business Organizations Code (“Tex. Bus. Org. Code”);
- (c) Texas Administrative Code, Title 19 (“19 TAC”);
- (d) Code of Federal Regulations, Title 2 (“2 CFR”), Part 200;
- (e) Financial Accountability System Resource Guide (“FASRG”);
- (f) *Standards for Internal Control in the Federal Government*; and
- (g) *Government Auditing Standards*.

Sec. 2. AUTHORITY OVER FISCAL MATTERS.

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

Sec. 2.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,¹ interested² or related³ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 2.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

¹ Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

² 19 TAC § 100.1047(f)

³ Tex. Ed. Code § 12.1166

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Sec. 3. DEVELOPMENT OF MONTHLY FINANCIAL STATEMENTS AND BUDGET AMENDMENTS.

Sec. 3.1. Except for the first and last month of the fiscal year, the Delegate or designee shall prepare and provide unaudited financial statements to the Board within ten (10) business days after the end of each calendar month. The Board Chair may grant extensions as appropriate and necessary.

Sec. 3.2. As appropriate and necessary and consistent with Board policy governing the annual operating budget, the Delegate or designee shall prepare amendments to the budget adopted by the Board. In accordance with applicable law, no obligation of funds or expenditure may be made prior to the Board's budget approval or approval of a budget amendment.

Sec. 3.3. Within ten (10) business days after the end of each calendar month, the Delegate or designee shall prepare and provide to the Board a sufficiently detailed report disclosing, **without exception**, any and all:

- (a) In accordance with Sec. 2.2 of this policy, business arrangements and transactions with an officer and any conflicted, interested, or related party;
- (b) Instances of a corporate charge or credit account cardholder who failed to comply with applicable Board policy and administrative procedure relating to the School's corporate charge or credit accounts and who incurred prohibited expenses, including the amount(s) that the cardholder refunded to School or that the cardholder was required to pay from personal funds and any penalty and/or interest incurred by School;
- (c) Purchases of property and/or services that did not conform to the Board's policy on purchasing; and
- (d) Observed noncompliance and weaknesses in internal controls, regardless of materiality.

Sec. 4. PRESENTING FINANCIAL STATEMENTS AND BUDGET AMENDMENTS TO BOARD.

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

Sec. 5. FINANCIAL REPORTING DATA SUBMISSION.

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

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- (a) A financial and compliance report, management letter (if issued by the independent auditor) and any required supplementary data submission;
- (b) Budgeted financial data and actual, audited financial data to the Public Education Information Management System (“PEIMS”);
- (c) Expenditure reports for draw down requests from grants awarded by the TEA or other grantor; and
- (d) Other forms and reports required by state or federal law or rule.

Sec. 6. IRS FILINGS.

In accordance with the Internal Revenue Code and Treasury Regulations, the School shall file a Form 990 annually on or before the date due. Additionally, School shall file Form 941s quarterly on or before the dates due. The 990 and 941s shall be presented to the Board for review and approval before filing.

Sec. 7. ANNUAL AUDIT; ANNUAL FINANCIAL AND COMPLIANCE REPORT.

Sec. 7.1. Annual and Interim Audits.

Sec. 7.1.1. In accordance with the Professional Services Procurement Act, the School shall procure the services of a certified public accountant that meets the requirements established in rule by the TEA to conduct an annual, independent audit of its financial statements, the financial and programmatic operations of the School, and the accuracy of the fiscal information submitted through the PEIMS and to provide an opinion on the financial statements and issue a report on internal control over financial reporting and on compliance and a report on compliance for major federal programs and on internal control over compliance.⁴

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

Sec. 7.2. Independent Auditor’s Qualifications.

Sec. 7.2.1. The independent auditor shall:

- (a) Be associated with a CPA firm that has a current valid license issued by the Texas State Board of Public Accountancy;

⁴ 19 TAC §100.1047(c); 19 TAC §109.23(d)

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- (b) Be a CPA with a current valid license issued by the Texas State Board of Public Accountancy; and
- (c) Adhere to the generally accepted auditing standards (GAAS), adopted by the American Institute of CPAs (AICPA), as amended, and the generally accepted government auditing standards (GAGAS), adopted by the U.S. Government Accountability Office, as amended.⁵

Sec. 7.2.2. The CPA firm required under Sec. 7.2.1(a) of this policy must:

- (a) Be a member of the AICPA Governmental Audit Quality Center (GAQC);
- (b) Adhere to GAQC's membership requirements; and
- (c) Collectively have the knowledge, skills, and experience to be competent for the audit being conducted, including thorough knowledge of GAGAS and:
 - (1) Texas public school district environment; or
 - (2) public sector; or
 - (3) nonprofit sector.⁶

Sec. 7.3. **Report Requirements.**

Sec. 7.3.1. REPORT CONTENT.

The Delegate or designee shall ensure that the annual financial and compliance report includes the content, reports, schedules and note disclosures required under generally accepted accounting principles (“GAAP”), as promulgated by the Financial Accounting Standards Board, and pursuant to the financial reporting requirements adopted by the TEA in the FASRG. The Delegate or designee shall ensure that the annual financial and compliance report includes financial and other information for the corporation as a whole and for its open-enrollment charter school.⁷

Sec. 7.3.2. ACCOUNTING POLICY.

Consistent with GAAP, the School shall observe the following accounting policies:

⁵ 19 TAC §109.23(d)(1)

⁶ 19 TAC §109.23(d)(2)

⁷ 19 TAC §100.1047(b); Tex. Bus. Org. Code §22.352

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- (a) *Cash equivalents.* For financial statement purposes, the School considers all highly liquid investments with an original maturity of three months or less to be cash equivalents.
- (b) *Restricted support.* The School shall report restricted support as temporarily restricted regardless of whether or not the restrictions are met within the same fiscal year.
- (c) *Amortization and depreciation expense.* The School shall record amortization and depreciation expense using the straight-line method and the useful life of the asset or the estimated useful lives for each asset class established in the Board’s Capital Assets Policy.

Except as specified in Sec. 7.3.2 of this policy, the Delegate or designee may recommend for adoption such other accounting policies as the Delegate or designee deems appropriate and necessary. These shall be reviewed and approved by the Board. In this adoption process, the Delegate or designee may consult with the School’s independent auditor or another CPA. At the Board’s discretion, the Board may review any accounting policy recommended for adoption by the Delegate or designee under this subsection and may approve or disapprove said policy.

Sec. 7.3.3. BOARD APPROVAL.

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

Sec. 8. TRAINING AND UPDATES.⁸

The Delegate or designee shall properly train officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep officers and employees informed of any changes to this policy and related requirements.

⁸ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

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Sec. 9. ADMINISTRATIVE PROCEDURES.²

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

Sec. 10. DATE ADOPTED AND EFFECTIVE.

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on MDY and became effective on MDY.

Sec. 11. RETENTION.¹⁰

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter.

⁹ Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegates or designee to adopt an administrative procedure to implement this policy. Moreover, in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is the governing authority and, as such, manages and directs the School's business and affairs through Board actions, resolutions and policy.

¹⁰ Tex. Ed. Code §12.1052; 19 TAC §100.1203; See Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, §7.125(a)(1).

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Sec. 12. CERTIFICATION.

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to Financial Reporting, as originally adopted by the Board on MDY, which Policy, as amended, is in full force and effect and has not been revoked or amended.

[INSERT NAME HERE.], Secretary

Date Certified

DISCLAIMER

This template provides Texas open-enrollment charter holders and their open-enrollment charter schools with a sample policy pertaining to authority over fiscal matters. The policy included in this template is not all-inclusive and only addresses the minimum requirements established by applicable or relevant legal requirements and best practice. Consequently, users may need to include additional policy statements addressing their unique local requirements. Lastly, users should consult with a legal or other qualified advisor to guide them in the development and maintenance of a policy that is consistent with the applicable or relevant legal requirements addressed in this template.

NOT LEGAL ADVICE. As legal advice must be tailored to the specific circumstances of each case, nothing provided herein should be used as a substitute for advice of competent counsel. The statements in this template do not constitute legal advice, do not necessarily reflect the opinions of Schulman, Lopez, Hoffer & Adelstein, LLP or any of its lawyers or clients, and are not guaranteed to be correct, complete or up-to-date. Further, if your corporation and its charter school(s) are not clients of the Firm, this template is not intended to create, and does not create, an attorney-client relationship between your corporation and its charter school(s) and Schulman, Lopez, Hoffer & Adelstein, LLP; commensurately, you should not act or rely on any information in this template without consulting your own legal and other qualified advisors. Accordingly, please do not send the Firm any information about any legal matter, which may involve your corporation or your charter school unless or until you have received a written statement from the Firm in the form of an engagement letter confirming that we represent you.

PG-5.210: CASH MANAGEMENT

SEC. 1. BOARD OVERSIGHT OF CASH.

The Board of Directors (“Board”) shall govern and manage the cash received and disbursed from all sources of funding in a manner consistent with State and Federal law and to achieve favorable cash flows to further the interests of **MOODY EARLY CHILDHOOD CENTER** and **MOODY EARLY CHILDHOOD CENTER**.

SEC. 2. OPERATING ACCOUNT.

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

SEC. 3. PAYROLL ACCOUNT.

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

SEC. 4. ACCOUNT SIGNATORIES.

The Board, by resolution, has authorized the Superintendent and the Chief Financial Officer as the signatories to **MOODY EARLY CHILDHOOD**’s bank accounts.

SEC. 5. RECORD OF CASH RECEIPTS AND DISBURSEMENTS.

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

SEC. 6. CHECK REGISTER.

The Superintendent or designee shall prepare a register of individual deposits and disbursements for the Operating and Payroll Accounts, commonly referred to as the Check Register.

SEC. 7. ORIGINAL, ITEMIZED RECORDS.

The Superintendent or designee shall maintain an original, itemized record of each deposit and disbursement supporting the transactions listed on the Check Register for the Operating Account and the Payroll Account.

SEC. 8. RECONCILIATION OF ACCOUNTS.

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

SEC. 9. INVESTMENT OF SURPLUS CASH.

For purposes of this Policy, surplus cash shall mean the available cash balance in the Operating Account exceeding two times the amount of the charter holder's or the charter school's total current liabilities, as applicable. Surplus cash shall be invested as approved by Board resolution and in compliance with Education Code Section 12.1053 and Government Code Sections 2256.009 through 2256.0016.

SEC. 10. CASH FLOW PROJECTION.

The Superintendent or designee shall prepare a projection of the cash inflows and cash outflows of **MOODY EARLY CHILDHOOD CENTER** and **MOODY EARLY CHILDHOOD CENTER**, which shall be commonly referred to as the Cash Flow Projection. The Cash Flow Projection shall be presented to the Board at each regularly scheduled meeting of the Board, along with explanations of any significant variances thereto. For purposes of this Policy, a significant variance is defined as a variance of the actual cash inflow or cash outflow for a specific line item that exceeds the projected cash inflow or projected cash outflow, as amended, by five percent or more. Any amendments to the Cash Flow Projection shall also be disclosed to the Board.

SEC. 11. OTHER METHOD OF DISBURSEMENT.

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

SEC. 12. ADMINISTRATIVE PROCEDURES.

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

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CORPORATE CREDIT ACCOUNTS

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PG-5.220: CORPORATE CREDIT ACCOUNTS

SEC. 1. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of MOODY EARLY CHILDHOOD CENTER doing business as MOODY EARLY CHILDHOOD CENTER (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

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

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

Sec. 2. AUTHORITY OVER FISCAL MATTERS.

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

Sec. 2.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,¹ interested² or related³ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

¹ Tex. Ed. Code §12.1054; 19 TAC §§ 100.1131 through 100.1135

² 19 TAC §100.1047(f)

³ Tex. Ed. Code §12.1166

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Sec. 2.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

SEC. 3. BOARD AUTHORIZATION.

Sec. 3.1. Subject to Sec. 2 of this policy, the Board authorizes the Delegate to establish a corporate credit account(s) for the purpose of procuring goods and/or services for School activities, functions, programs and services and to facilitate business travel. In furtherance of this purpose, the Delegate may authorize certain School employees to use the corporate credit account(s).

Sec. 3.2. In authorizing the establishment of a corporate credit account(s), the Board is not authorizing the Delegate to pay the corporate credit account issuer(s) directly. Instead, the Delegate shall require each employee authorized to use the corporate credit account(s) to assume personal liability for all charges, request reimbursement of charges conforming to this policy, and paying the issuer directly for the expenses charged to the corporate credit account(s) assigned to the employee.

SEC. 4. COMPLIANCE WITH POLICY.

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

SEC. 5. EMPLOYEE ELIGIBILITY.

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

Eligible Employees. School personnel listed in Sec. 5 of the Controlling Policy are eligible to use the corporate credit account(s). Additionally, the Delegate may authorize a School employee not listed in said policy to use the corporate credit account(s) if, on a monthly basis, the employee purchases goods and/or services or travels in furtherance of the School’s business activities and incurs \$500 or more related expenses on a monthly basis.

Credit Worthiness. The Delegate may not approve any School employee that is not credit worthy as determined by the credit account issuer after conducting an authorized credit history check.

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

SEC. 6. REQUIREMENTS FOR APPROVAL AND USE.

Application Required. To be granted authorization to use the School’s corporate credit account(s), a School employee must submit a written application in the form specified by the Delegate.

Credit Review Required. School employees that submit a corporate credit account application shall authorize the corporate credit account issuer to conduct a review of the employee’s credit history.

Agreement Required. Prior to using the School’s corporate credit account(s), the employee shall sign a standard written agreement in the form specified by the Delegate. In the standard written agreement, the Delegate shall include terms and conditions that effectively implement this policy and best practices that safeguard the use of the corporate credit account(s).

Form. An employee authorized to use the School’s corporate credit account(s) shall do so through a corporate credit account card(s).

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

SEC. 7. DELEGATE’S RESPONSIBILITIES.

The Delegate or designee shall:

- (a) Oversee the administration of the School’s corporate credit account(s).
- (b) Process all requests to use the corporate credit account(s), including any modifications to said use.
- (c) Restrict the use of corporate credit account(s) to specific Merchant Category Codes to mitigate the use of the account(s) at unapproved merchant types.
- (d) Review each cardholder’s expenses, approve or disapprove each cardholder’s charges, and authorize the payment of all eligible expenses charged to the corporate credit account(s).

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- (e) If an expense is disapproved, inform the cardholder in writing of the amount(s) that were disallowed and the basis for the disallowance.
- (f) Provide monthly statements to each employee authorized to use the corporate credit account(s).
- (g) Require each employee to affirm, in writing, that the expenses disclosed on each monthly statement were incurred for official School business and conform to applicable legal requirements and Board policy.
- (h) Monitor and enforce compliance with this policy, any other related Board policies, and any administrative procedures.
- (i) Investigate any irregularities or alleged misconduct and report findings to the Board.
- (j) Take control and possession of an employee's access to the corporate credit account(s) upon the employee's separation from employment with the School or other relevant change in employment status.
- (k) Disclose, in writing, any violation of this policy by any employee to the Board.

SEC. 8. AUTHORIZED EMPLOYEE DUTIES.

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

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

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

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

Disclosure of Conflicted, Interested, or Related-Party Transactions. Cardholders shall disclose to the Delegate or designee any business arrangement or transaction with any conflicted, interested, or related party, as defined in other Board policy or applicable law. Cardholders may not enter

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into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

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

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

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

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

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

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

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

Reconciliation Required. Cardholders shall reconcile any and all charges disclosed on the monthly statement pertaining to their assigned corporate credit account(s) to original, itemized receipts. Cardholders shall subsequently submit the receipts to the Delegate or designee and identify any expenses for which a receipt is missing, or which was not authorized by the cardholder.

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Reimbursement Request. Cardholders shall agree to submit requests for reimbursement for legitimate business expenses.

Safeguarding Account. Cardholders shall appropriately safeguard their assigned corporate credit account(s) and card(s), including the account number, the security code, expiration date and associated mailing zip code to protect against any unauthorized access of the corporate credit account.

Sales Taxes. Since the School is tax-exempt, cardholders shall ensure that sales taxes are not charged on any purchase.

SEC. 9. AUTHORIZED USER.

Only the cardholder shall use their assigned corporate account(s) and card(s) to purchase goods and/or services, including business travel. A cardholder may not authorize anyone, including a School employee, to use their assigned corporate account(s) and card(s) for any purpose.

SEC. 10. PROHIBITED USE.

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

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

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

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

SEC. 11. TERMINATION OF CARDHOLDER PARTICIPATION.

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

- (a) Cardholder is no longer employed by School.
- (b) Cardholder changes position and their new position does not meet the requirement for eligibility set forth in Sec. 5 of this policy.
- (c) In using their assigned corporate card(s), cardholder materially violated this policy or other related Board policy and any pertinent administrative procedures.
- (d) Cardholder is suspended, placed on administrative leave, or is subject to other adverse employment action.

SEC. 12. REQUIRED SUBSTANTIATION.

Sec. 12.1. For each transaction, cardholders shall provide:

- (a) a sufficiently detailed description of:
 - (1) the business purpose for the transaction;
 - (2) how said purpose directly benefited the School; and
 - (3) the names of the individuals who were part of the transaction, including the organization they represented and the official capacity in which they represented said organization; and
- (b) the original, itemized third-party receipts and other such records that fully discloses:
 - (1) the vendor's name, place of business and contact information;
 - (2) the transaction date and total amount of the purchase; and

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- (3) individual line items for the goods and/or services purchased and the cost of each item.

Sec. 12.2. Cardholders shall ensure that vendors provide an original, itemized receipt conforming to the requirements set forth in Sec. 13.1(a) of this policy.

Sec. 12.3. If the cardholder fails to provide the required substantiation under Sec. 13.1 of this policy, the cardholder shall be liable for the amount(s) of the unsubstantiated transaction(s).

SEC. 13. REVIEW BY BOARD.

Without exception, the Board shall review and approve or disapprove the expenses charged by an officer⁴ to their assigned corporate credit account(s) and required substantiation. If disapproved, the Board's designee shall inform the officer in writing of the amount(s) that were disallowed and the basis for the disallowance.

SEC. 14. PARTICIPATION IN REWARDS PROGRAM.

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

Sec. 15. TRAINING AND UPDATES.⁵

The Delegate or designee shall properly train School officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep School officers and employees informed of any changes to this policy and related requirements.

Sec. 16. ADMINISTRATIVE PROCEDURES.⁶

The Delegate shall formally adopt administrative procedures as reasonably necessary to properly administer this policy and to adhere to applicable law and rule. In doing so, the Delegate shall

⁴ See Sec. 5 of the Controlling Policy.

⁵ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

⁶ Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegates or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in the School's Articles of Incorporation and Bylaws and in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is the School's governing authority and, as such, manages and directs the School's business and affairs through Board actions, resolutions and policy.

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not adopt, and is prohibited from adopting, an administrative procedure that conflicts with applicable law or this policy. Accordingly, the Delegate shall confer with the Board or legal counsel before deviating from the requirements set forth in this policy. In the event that a deviation from this policy becomes necessary, the Delegate shall either recommend an amendment to this policy or the Board’s approval of a specific deviation, including the purpose, scope and duration of the requested deviation.

Sec. 17. DATE ADOPTED AND EFFECTIVE.

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on MDY, and it became effective on MDY.

SEC. 18. RETENTION.⁷

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter in accordance with state law.

SEC. 19. CERTIFICATION.

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to Corporate Credit Accounts, as originally adopted by the Board on MDY, which Policy is in full force and effect and has not been revoked or amended.

[INSERT NAME HERE.], Secretary

Date Certified

⁷ Tex. Ed. Code §12.1052; 19 TAC §100.1203; See Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, §7.125(a)(1).

DISCLAIMER

This template provides Texas open-enrollment charter holders and their open-enrollment charter schools with a sample policy pertaining to fundraising. The policy included in this template is not all-inclusive and only addresses the minimum requirements established by applicable or relevant legal requirements and best practice. Consequently, users may need to include additional policy statements addressing their unique local requirements. Lastly, users should consult with a legal or other qualified advisor to guide them in the development and maintenance of a policy that is consistent with the applicable or relevant legal requirements addressed in this template.

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**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
MANUAL**

**POLICY GROUP 5 – FISCAL MANAGEMENT
FUNDRAISING**

PG-5.290

PG-5.290: FUNDRAISING

Sec. 1. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of MOODY EARLY CHILDHOOD CENTER doing business as MOODY EARLY CHILDHOOD CENTER (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

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

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

Sec. 2. APPLICABILITY OF POLICY.

This policy pertains to the receipt, safeguarding and use of funds received by School personnel. This policy supplements the Board’s Policy for Gift Acceptance.

Sec. 3. AUTHORITY OVER FISCAL MATTERS.

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

Sec. 3.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,¹ interested² or related³ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 3.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

¹ Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

² 19 TAC § 100.1047(f)

³ Tex. Ed. Code § 12.1166

Sec. 4. **CONTRIBUTIONS RECEIVED.**

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

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

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

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

Sec. 4.5. **Contributions Received from Vendors.** School officers, as defined in Sec. 5 of the Controlling Policy, and employees may not receive contributions directly from any vendor. If a vendor makes a cash or in-kind contribution to an officer or employee, the officer or employee shall route the contribution to the Delegate or designee. The Delegate or designee shall maintain proper control of the contribution. See Board Policy relating to Gift Acceptance for additional requirements.

Sec. 4.6. **Special Events.** The School may organize special events for the purpose of raising funds from donors. School officers, as defined in Sec. 5 of the Controlling Policy, must ensure that special events yield fundraising results that exceed the cost of the event by at least fifty percent (50%).

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

**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
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**POLICY GROUP 5 – FISCAL MANAGEMENT
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Sec. 4.8. Use of Restricted Contributions. A restricted contribution is a contribution from a donor who stipulated, in writing, that a specific condition(s) must be met so that the contribution may be used. In this instance, the School may only use a restricted contribution as stipulated by the donor. To ensure compliance with the donor's stipulation(s), the Delegate or designee shall obtain a written agreement from the donor setting forth the specific condition(s) that must be met to enable School to use the contribution received.

Sec. 4.9. Reports to Donors. The Delegate or designee shall provide a report to donors disclosing the uses of their contributions.

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

Sec. 5. TAX-EXEMPT LETTER.

Sec. 5.1. See Board Policy relating to Gift Acceptance, Sec. 10.

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

Sec. 5.3. Written Acknowledgement of Certain Donations.⁴ In accordance with the Internal Revenue Code and Treasury Regulations, a donor is prohibited from claiming a tax deduction for any single contribution of \$250 or more unless the donor receives a contemporaneous, written acknowledgement of the contribution from the School. To facilitate the donor's compliance with applicable law, the School may provide a donor contributing \$250 or more with a timely, written annual statement that includes, on the School's letterhead:

- (a) The School's name;
- (b) The amount of the cash contribution(s) received from the donor during the calendar year;
- (c) A description (but not the value) of the non-cash contribution(s), if any; and
- (d) A statement that no goods or services were provided by School in return for the contribution, if applicable; or
- (e) A description and good faith estimate of the value of goods or services that School provided in return for the contribution, if applicable.

Sec. 5.4. Form of Written Acknowledgement. The School may provide the written acknowledgement via U.S. Postal Service or electronic mail.

⁴ IRS Publication 1771 (Rev. 3-2016) Catalog Number 20054Q, page 2.

Sec. 5.5. Contemporaneous Defined.⁵ For purposes of Sec. 5.2 of this policy, the School must provide the donor with a written acknowledgement by January 31 of the calendar year following the receipt of the donor’s contribution.

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

Sec. 6. **TRAINING AND UPDATES.**⁶

The Delegate or designee shall properly train officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep officers and employees informed of any changes to this policy and related requirements.

Sec. 7. **ADMINISTRATIVE PROCEDURES.**⁷

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

Sec. 8. **DATE ADOPTED AND EFFECTIVE.**

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on MDY and became effective on MDY.

⁵ *Ibid*, page 3.

⁶ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

⁷ Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in School’s Articles of Incorporation and Bylaws and in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is School’s governing authority and, as such, manages and directs School’s business and affairs through Board actions, resolutions and policy.

**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
MANUAL
POLICY GROUP 5 – FISCAL MANAGEMENT
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Sec. 9. **RETENTION.**⁸

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter.

Sec. 10. **CERTIFICATION.**

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to Fundraising, as originally adopted by the Board on MDY, which Policy, as amended, is in full force and effect and has not been revoked or amended.

[INSERT NAME HERE.], Secretary

Date Certified

⁸ Tex. Ed. Code §12.1052; 19 TAC §100.1203; See Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, §7.125(a)(1).

DISCLAIMER

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**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
MANUAL
POLICY GROUP 5 – FISCAL MANAGEMENT
CAPITAL ASSETS**

PG-5.310

PG-5.310: CAPITAL ASSETS

Sec. 1. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of MOODY EARLY CHILDHOOD CENTER doing business as MOODY EARLY CHILDHOOD CENTER (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

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

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

Sec. 2. AUTHORITY OVER FISCAL MATTERS.

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

Sec. 2.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,¹ interested² or related³ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 2.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

¹ Tex. Ed. Code §12.1054; 19 TAC §§ 100.1131 through 100.1135

² 19 TAC §100.1047(f)

³ Tex. Ed. Code §12.1166

**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
MANUAL
POLICY GROUP 5 – FISCAL MANAGEMENT
CAPITAL ASSETS**

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SEC. 3. CAPITAL ASSETS.

Sec. 3.1. Capital Assets Defined.

Capital assets means any tangible or intangible item of property acquired by the School, regardless of funding source used or if donated, with a cost of \$5,000 or more and a useful life of greater than one (1) year at the time of acquisition.⁴ The broad range of capital assets that are used in operations, include:

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

Sec. 3.2. Capitalized Costs.

Sec. 3.2.1. The School shall capitalize costs incurred for the acquisition of an asset in a manner consistent with generally accepted accounting principles. At a minimum, the School shall capitalize an asset's purchase price and any expenses incurred for ancillary activities (e.g., site preparation, transportation and installation) to bring the asset to the condition and location necessary for its intended use.

Sec. 3.2.2. The School shall capitalize the fair market value of donated assets as of the date that the asset was donated.

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

Sec. 3.2.4. The School shall capitalize the cost of improvements to property if the improvements:

- (a) Extend the useful life of the asset;
- (b) Enhance the overall value of the asset; or

⁴ 2 CFR §200.1

⁵ 19 TAC §100.1001(6)

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- (c) Adapt the asset so that it may be repurposed.

Sec. 3.3. Capitalization Thresholds.

The School shall capitalize the cost of acquiring an asset if the cost per unit equals or exceeds the following amounts.

Property Description	Capitalization Threshold
Land	\$0
Improvements to land	\$50,000
Buildings	\$50,000
Improvements to buildings	\$50,000
Leasehold improvements	\$50,000
Construction in progress	\$50,000
Furniture and equipment	\$5,000
Vehicles	\$5,000
Other personal property	\$5,000

Sec. 3.4. Approval Required.⁶

The Board shall approve all purchases of real property, the purchase of construction services for a new building or the renovation of an existing building, and the acquisition of personal property requiring the execution of a contract. Refer to the Board’s Policy relating to Purchasing.

The Board may delegate its authority for construction, renovations or repairs pursuant to Education Code § 44.0312 by written resolution, with such delegation to a person, representatives or committee, but shall provide notice of this delegation and the limits of the delegation as required by law and include the same in all request for bids, proposals or qualifications or as an addendum to a request. Failure to comply with the legal requirements will render and decision not made by the Board an advisory/recommendation only and shall not be binding on the Board or charter school.

⁶ *El Paso Education Initiative, Inc. v. Amex Properties, LLC*, 385 S.W.3d 701, 706, 708 (Tex. App.–El Paso 2012, pet. denied.); 19 TAC §§ 100.1033(b)(14)(C)(ii) and 100.1101(b)-(c)

**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
MANUAL
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SEC. 4. DEPRECIATION.

Sec. 4.1. Authorized Method of Depreciation.

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

$$(\text{Capitalized Cost of Asset} - \text{Salvage Value}) \div \text{Estimated Useful Life}$$

Sec. 4.2. Useful Life.

Consistent with generally accepted accounting principles, the useful life of an asset means the period during which the asset is projected to generate revenue or provide other valuable service to the School and not how long the asset will last. Generally, the School shall observe the following useful life for each type of capital asset.

Type	Useful Life
Land	Perpetual
Improvements to land	15
Buildings	30
Modular Buildings	10
Improvements to buildings	Remaining useful life of the building
Leasehold improvements	Lease term
HVAC systems	15
Electrical/Plumbing	15
Roofing	15
Carpet replacement	7
Cabling	5
Computer hardware	3
Computer software	3
Duplicating equipment	5
Custodial equipment	7
Office and classroom furniture, fixtures and equipment	7
Grounds equipment	7
Kitchen equipment	7

**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
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Audio-Visual equipment	5
Vehicles	5

SEC. 5. INVENTORY OF ASSETS.

Sec. 5.1. The Delegate or designee shall maintain an inventory of all capital assets and of the following non-capital assets (“Sec. 511 Assets”):

- (a) Desktop computers,
- (b) Laptops,
- (c) Notebooks,
- (d) Smartphones
- (e) Tablets, and
- (f) Other computing devices.

Sec. 5.2. The Delegate or designee shall affix upon Sec. 511 Assets a permanent, machine-readable label that clearly identifies the asset as School property and uniquely accounts for the asset in the School’s inventory records.

Sec. 5.3. The Delegate or designee(s) shall annually conduct a physical inventory of Sec. 511 Assets and shall ensure appropriate corrective or other measures, including reports to law enforcement, are undertaken for any Sec. 511 Assets that are not located.

Sec. 5.4. When a change in campus principal or central office administrator occurs, the Delegate or designee and the outgoing principal or administrator shall conduct a joint inventory of Sec. 511 Assets.

Sec. 5.5. The School shall maintain accurate, complete, and up-to-date records of all capital assets through physical counts, the review of purchase records, and other methods, as deemed appropriate and necessary.

SEC. 6. SAFEGUARDING OF ASSETS.

Sec. 6.1. The Delegate or designee shall ensure that Sec. 511 Assets are safeguarded.

Sec. 6.2. The Delegate or designee shall adopt a system for transferring assets assigned to a campus or department to another campus or department.

**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
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Sec. 7. DISPOSITION OF CAPITAL ASSETS.

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

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

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

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

Sec. 7.5. If the asset has no value, the Delegate or designee may dispose of the asset as deemed administratively expedient.⁷

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

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

⁷ An administratively expedient disposal does not result in any additional administrative process beyond documenting the disposal of the asset.

**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
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Sec. 7.8. School personnel are prohibited from receiving, through sale or otherwise, any asset that is to be disposed except as established under this policy and pursuant to the administrative procedures adopted under this policy.

Sec. 7.9. The Delegate or designee shall dispose of assets acquired with federal funds in accordance with applicable federal regulations and grantor agency policy and grant requirements.

Sec. 8. TRAINING AND UPDATES.⁸

The Delegate or designee shall properly train School officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep School officers and employees informed of any changes to this policy and related requirements.

Sec. 9. ADMINISTRATIVE PROCEDURES.²

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

Sec. 10. DATE ADOPTED AND EFFECTIVE.

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on MDY, and it became effective on MDY.

⁸ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

⁹ Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegates or designee to adopt an administrative procedure to implement this policy. Moreover, in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is the governing authority and, as such, manages and directs the School's business and affairs through Board actions, resolutions and policy.

**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
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SEC. 11. RETENTION.¹⁰

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter in accordance with state law.

SEC. 12. CERTIFICATION.

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to Accounts Payable, as originally adopted by the Board on MDY, which Policy is in full force and effect and has not been revoked or amended.

[INSERT NAME HERE.], Secretary

Date Certified

¹⁰ Tex. Ed. Code §12.1052; 19 TAC §100.1203; See Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, §7.125(a)(1).

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This template provides Texas open-enrollment charter holders and their open-enrollment charter schools with a sample policy pertaining to the adoption and amendment of the annual operating budget. The policy included in this template is not all-inclusive and only addresses the minimum requirements established by applicable or relevant legal requirements and best practice. Consequently, users may need to include additional policy statements addressing their unique local requirements. Lastly, users should consult with a legal or other qualified advisor to guide them in the development and maintenance of a policy that is consistent with the applicable or relevant legal requirements addressed in this template.

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**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
MANUAL**
POLICY GROUP 5 – FISCAL MANAGEMENT
INVESTMENT OF FUNDS

PG-5.320

PG-5.320: INVESTMENT OF FUNDS

Sec. 1. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of MOODY EARLY CHILDHOOD CENTER doing business as MOODY EARLY CHILDHOOD CENTER (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

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

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

Sec. 2. AUTHORITY OVER FISCAL MATTERS.

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

Sec. 2.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,¹ interested² or related³ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 2.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

¹ Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

² 19 TAC § 100.1047(f)

³ Tex. Ed. Code § 12.1166

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Sec. 3. INVESTMENT OBJECTIVES.⁴

In general, the Board and Delegate shall observe, in the priority order listed in this Sec. 3, the following objectives when investing funds:

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

Sec. 4. ACCOUNT MAINTENANCE.⁵

The Delegate or designee shall ensure that investments are maintained in discrete and distinct accounts that separate funds pertaining to non-School activities, functions, programs and services from public funds.

Sec. 5. INVESTMENT RECORDS.⁶

The Delegate or designee shall ensure that the School creates and maintains accurate and complete records of any and all investments of School funds.

Sec. 6. CONTRACTUAL CONSIDERATIONS.⁷

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

Sec. 7. AUTHORIZATION THRESHOLDS.⁸

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

⁴ 19 TAC §100.1045(c)(1)

⁵ 19 TAC §100.1045(b)(2)

⁶ Tex. Bus. Org. Code §22.352(a); Tex. Ed. Code §12.115(a)(2); 19 TAC §§ 100.1033(c)(1)(A)(vi)100.1047(b)(1)

⁷ 19 TAC §100.1045(b)(3)

⁸ 19 TAC §100.1033(b)(14)(C)(ii); Consistent with Tex. Gov't. Code §2256.003

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Sec. 8. AUTHORIZED INVESTMENTS.

The Board and Delegate or designee may purchase, sell and invest public funds in the following authorized investments.⁹

Sec. 8.1. Obligations of or Guaranteed by a Governmental Entity.¹⁰ Except as provided by Sec. 8.2 of this policy, the following are authorized investments under this subsection.

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

⁹ Tex. Ed. Code §12.1053(b)(3)

¹⁰ Tex. Gov’t. Code §2256.009(a)

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

Sec. 8.2. Prohibited Investments.¹¹ The following investments are prohibited.

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

¹¹ Tex. Gov't. Code §2256.009(b)

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Sec. 8.3. Certificates of Deposit and Share Certificates.¹² A certificate of deposit or share certificate is an authorized investment under this policy if the certificate is issued by a depository institution that has its main office or a branch office in the State of Texas and is:

- (a) guaranteed or insured by the FDIC or its successor or the NCUSIF or its successor;
- (b) secured by obligations authorized in Sec. 8.1 of this policy, including mortgage-backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, excluding those mortgage backed securities of the nature described by Sec. 8.2 of this policy; or
- (c) secured accordance with Tex. Gov't. Code Chapter 2257 or in any other manner and amount provided by law for deposits of the School.

Sec. 1.2. Other Authorized Form for Certificates of Deposit and Share Certificates.¹³ An investment in a certificate of deposit is authorized under this subsection if it is made under the following conditions:

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

¹² Tex. Gov't. Code §2256.010(a)

¹³ Tex. Gov't. Code §2256.010(b)

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Sec. 1.3. Repurchase Agreements.¹⁴ A fully collateralized repurchase agreement is an authorized investment under this subsection if the repurchase agreement:

- (a) has a defined termination date;
- (b) is secured by a combination of cash and obligations authorized at Sec. 8.1(a) or 8.8 of this policy;
- (c) requires the securities being purchased by the School or cash held by the School to be pledged to the School, held in the School's name, and deposited at the time the investment is made with the School or with a third party selected and approved by the School; and
- (d) is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in the State of Texas.

Sec. 1.1.1. *Repurchase Agreement Defined.* For purposes of this policy, “repurchase agreement” means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations described under Sec. 8.1(a) or 8.8 of this policy, at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement.

Sec. 1.1.2. *Term of Agreement.* The term of any reverse security repurchase agreement may not exceed ninety (90) days after the date the reverse security repurchase agreement is delivered.

Sec. 1.1.3. *Use of Invested Funds.* Money received by the School under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

Sec. 1.2. Securities Lending Programs.¹⁵ A securities lending program is an authorized investment if it meets the following conditions:

- (a) the value of the securities loaned is at least 100% collateralized, including accrued income;
- (b) a loan made under the program must allow for termination at any time;

¹⁴ Tex. Gov't. Code §2256.011

¹⁵ Tex. Gov't. Code §2256.0115

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- (c) a loan made under the program is secured by:
 - (1) pledged securities described in Sec. 8.1 of this policy;
 - (2) pledged irrevocable letters of credit issued by a bank that is organized and existing under the laws of the United States or any other state and continuously rated by at least one nationally recognized investment rating firm at not less than “A” or its equivalent; or
 - (3) cash invested in accordance with Sec. 8.1, 8.8, 8.9, or 8.11 of this policy;
- (d) the terms of the loan require that the securities being held as collateral be:
 - (1) pledged to the School;
 - (2) held in the School’s name; and
 - (3) deposited at the time the investment is made with the School or with a third party selected or approved by the Board;
- (e) the loan is placed through a primary government securities dealer, as defined at 5 CFR §6801.102(f), as that regulation existed on September 1, 2003, or a financial institution doing business in the State of Texas; and
- (f) the agreement to lend securities has a term of one year or less.

Sec. 1.3. Banker’s Acceptances.¹⁶ A banker’s acceptance is an authorized investment if it:

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

¹⁶ Tex. Gov’t. Code §2256.012

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Sec. 1.4. Commercial Paper.¹⁷ Commercial paper is an authorized investment if it:

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

Sec. 1.5. Mutual Funds.

Sec. 1.5.1. *No-load Money Market Mutual Funds*.¹⁸ No-load money market mutual funds are an authorized investment if they:

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

Sec. 1.5.2. *No-load Mutual Funds*.¹⁹ No-load mutual funds are an authorized investment if they:

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

¹⁷ Tex. Gov’t. Code §2256.013

¹⁸ Tex. Gov’t. Code §2256.014(a)

¹⁹ Tex. Gov’t. Code §2256.014(b)

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Sec. 1.5.3. *Prohibited Investments.*²⁰ The School may not invest:

- (a) in the aggregate more than 15% of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service, in no-load mutual funds;
- (b) any portion of bond proceeds, reserves, and funds held for debt service, in no-load market mutual funds; or
- (c) its funds or funds under its control, including bond proceeds and reserves and other funds held for debt service, in any one mutual fund described under Sec. 8.9.1 and 8.9.2 of this policy in an amount that exceeds 10% of the total assets of the mutual fund.

Sec. 1.2. Guaranteed Investment Contracts.²¹ A guaranteed investment contract is an authorized investment for bond proceeds if the guaranteed investment contract:

- (a) has a defined termination date;
- (b) is secured by obligations authorized under Sec. 8.1(a) of this policy, excluding those obligations described by Sec. 8.2 of this policy, in an amount at least equal to the amount of bond proceeds invested under the contract; and
- (c) is pledged to the School and deposited with the School or with a third party selected and approved by the Board.

Sec. 1.1.1. *Qualifying Requirements.* To be eligible as an authorized investment, the following requirements must be met.

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

²⁰ Tex. Gov't. Code §2256.014(c)

²¹ Tex. Gov't. Code §2256.015

- (e) The provider must certify the administrative costs reasonably expected to be paid to third parties in connection with the guaranteed investment contract.

Sec. 1.1.2. *Limitation to Contract Term.* Bond proceeds, other than bond proceeds representing reserves and funds maintained for debt service purposes, may not be invested in a guaranteed investment contract with a term longer than five (5) years from the date of issuance of the bonds.

Sec. 1.2. Investment Pools.²² An investment pool is an authorized investment if:

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

Sec. 1.1.1. *Receipt of Required Disclosure.* In order to invest in an investment pool, the Delegate or his designee must receive an offering circular or other similar disclosure instrument containing, at a minimum, the following information:

- (a) the types of investments in which money is allowed to be invested;
- (b) the maximum average dollar-weighted maturity allowed, based on the stated maturity date, of the pool;
- (c) the maximum stated maturity date any investment security within the portfolio has;
- (d) the objectives of the pool;
- (e) the size of the pool;
- (f) the names of the members of the advisory board of the pool and the dates their terms expire;
- (g) the custodian bank that will safekeep the pool's assets;
- (h) whether the intent of the pool is to maintain a net asset value of one dollar and the risk of market price fluctuation;

²² Tex. Gov't. Code §2256.016

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- (i) whether the only source of payment is the assets of the pool at market value or whether there is a secondary source of payment, such as insurance or guarantees, and a description of the secondary source of payment;
- (j) the name and address of the independent auditor of the pool;
- (k) the requirements to be satisfied for the School to deposit funds in and withdraw funds from the pool and any deadlines or other operating policies required for the School to invest funds in and withdraw funds from the pool;
- (l) the performance history of the pool, including yield, average dollar-weighted maturities, and expense ratios; and
- (m) the pool's policy regarding holding deposits in cash.

Sec. 1.1.2. *Continued Receipt of Required Disclosures.* In order to continue investing in the investment pool, the Superintendent or his designee must receive the following information:

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

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

Sec. 1.1.3. *Yield Calculation.* In this section, for purposes of an investment pool for which a \$1.00 net asset value is maintained, "yield" shall be calculated in accordance with regulations governing the registration of open-end management investment companies under the Investment Company Act of 1940, as promulgated from time to time by the SEC.

Sec. 1.1.4. *Monitoring of Investment Pool Compliance.* The Superintendent or his designee shall monitor the investment pool's compliance with Sec. 9.9.1, 9.9.2 and 9.9.3 above and Tex. Gov't. Code § 2256.016(f)-(k).

Sec. 2. REPORT TO THE FINANCE COMMITTEE.²³

At each meeting, the Delegate shall provide to the Finance Committee a report disclosing the status of any and all amounts invested under this policy. The Finance Committee may report to the Board its findings and make recommendations for the continued, discontinuation or other change in the School's investments.

Sec. 3. TRAINING AND UPDATES.²⁴

The Delegate or designee shall properly train officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep officers and employees informed of any changes to this policy and related requirements.

²³ FASRG Module 2

²⁴ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

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Sec. 4. ADMINISTRATIVE PROCEDURES.²⁵

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

Sec. 5. DATE ADOPTED AND EFFECTIVE.

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on MDY and became effective on MDY.

Sec. 6. RETENTION.²⁶

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter.

²⁵ Tex. Ed. Code § 12.115(a)(2); FASRG Module 2; 2 CFR § 200.303. Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in School's Articles of Incorporation and Bylaws and in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is the School's governing authority and, as such, manages and directs School's business and affairs through Board actions, resolutions and policy.

²⁶ Tex. Ed. Code § 12.1052; 19 TAC § 100.1203; *See* Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, § 7.125(a)(1).

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Sec. 7. CERTIFICATION.

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to the Authorization for the Obligation and Expenditure of Funds, as originally adopted by the Board on MDY, which Policy is in full force and effect and has not been revoked or amended.

[INSERT NAME HERE.], Secretary

Date Certified

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Moody Early Childhood Center does not issue payroll advances or loans to employees.

DATE ISSUED: May, 2023

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PURCHASING AND CONTRACTING

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PURCHASING AND CONTRACTING**

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Sec. 1. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of MOODY EARLY CHILDHOOD CENTER doing business as MOODY EARLY CHILDHOOD CENTER (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

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

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

Sec. 2. APPLICABILITY OF POLICY.

This policy pertains to the purchase of any and all goods and services from local, state and federal funds.

Sec. 3. AUTHORITY OVER FISCAL MATTERS.

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

Sec. 3.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in

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Sec. 5 of the Controlling Policy, and any conflicted,¹ interested² or related³ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 3.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

Sec. 4. **DEFINITIONS.**

Sec. 4.1. “Component purchases” means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.⁴

Sec. 4.2. “Micro-purchase threshold” means the dollar amount set at 48 CFR part 2, subpart 2.1, unless a higher threshold is requested by the Delegate and approved by the Texas Education Agency under an administrative procedure adopted pursuant to Sec. 6.3.1.5 and Sec. 11 of this policy.⁵

Sec. 4.3. “Officer” has the meaning set forth in Sec. 5 of the Controlling Policy.⁶

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

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

- (a) furniture, equipment, supplies, and other goods;
- (b) computer hardware and software;
- (c) contract rights, intellectual property such as patents, and other intangible property;
- (d) cash, currency, funds, bank accounts, securities, and other investment instruments;
- (e) the right to repayment of a loan, advance, or prepayment or to the payment of other receivables; and
- (f) any other form of personal property recognized by Texas law, such as vehicles.⁷

Sec. 4.6. “Professional services” means services:

¹ Tex. Ed. Code §12.1054; 19 TAC §§ 100.1131 through 100.1135

² 19 TAC §100.1047(f)

³ Tex. Ed. Code §12.1166

⁴ Tex. Ed. Code §44.032(a)(1)

⁵ 2 CFR §§ 200.1 and 200.320(a)(1)(iv)

⁶ 19 TAC §100.1001(16)-(20)

⁷ 19 TAC §100.1001(6), 2 CFR §200.1

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

Sec. 4.7. “Public works” means the construction, alteration, renovation, or repair of a public building, structure, road, highway, or other improvement or addition to real property.⁹

Sec. 4.8. “Separate purchases” means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.¹⁰

Sec. 4.9. “Sequential purchases” means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.¹¹

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

⁸ Tex. Gov’t. Code §2254.002(2)

⁹ Tex. Gov’t. Code §2269.001(6); Tex. Local Gov’t. Code §271.024

¹⁰ Tex. Ed. Code §44.032(a)(2)

¹¹ Tex. Ed. Code §44.032(a)(3)

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Sec. 4.11. “Simplified acquisition threshold” means \$50,000 for funds administered by the Texas Department of Agriculture and for public works contracts and \$250,000 for state or other federal funds.¹²

Sec. 5. GENERAL REQUIREMENTS APPLICABLE TO ALL PURCHASES.

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

Sec. 5.1. AUTHORITY TO PROCURE GOODS AND SERVICES.¹³

Sec. 5.1.1. The Delegate or designee may approve the procurement of goods and services conforming with this policy and applicable law up to the amounts authorized by the Board in the Adopted Budget,¹⁴ as amended.

Sec. 5.1.2. The Delegate or designee may not approve the procurement of goods and services that result in an expenditure of funds in excess of the item(s) appropriated in the Adopted Budget, as amended.

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

Sec. 5.2. BENEFIT OF THE STUDENTS.¹⁵

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

Sec. 5.3. BOARD APPROVAL REQUIRED.¹⁶

Prior to executing any contract for the procurement of goods and services, the Board shall approve the contract.

¹² Administrator’s Reference Manual Section 17; 2 CFR §200.1

¹³ Tex. Ed. Code §44.052

¹⁴ See Board Policy relating to Authorization for the Obligation and Expenditure of Funds, Sec. 3.8.

¹⁵ Tex. Ed. Code §12.107(a); 19 TAC §100.1043(a)

¹⁶ See Controlling Policy, Sec. 3.1(j) and 6.2.

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Sec. 5.4. CONFLICTED,¹⁷ INTERESTED¹⁸ AND RELATED¹⁹ PARTY TRANSACTIONS.

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

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

Sec. 5.5. CONTRACT REQUIRED.²⁰

The Delegate or designee shall only approve the procurement of goods and services with a cost or value exceeding the Simplified Acquisition Threshold through a fully executed contract or other written legal agreement signed by all parties that protects the School's interests in the underlying business arrangement and transaction.

Sec. 5.6. CORPORATE CREDIT ACCOUNTS.²¹

See Board Policy relating to Corporate Credit Accounts.

Sec. 5.6.1. Purchasing Thresholds. Employees authorized to use the corporate credit account(s) may do so pursuant to the following thresholds.

- (a) The Superintendent, Chief Financial Officer, Chief Academic Officer, Chief Information Officer, General Counsel and assistant superintendents may purchase goods and/or services through the corporate credit account(s) for individual transactions not exceeding the micro-purchase threshold.
- (b) Campus principals and other employees may purchase goods and/or services through the corporate credit account(s) for individual transactions not exceeding \$2,500.00.

Sec. 5.6.2. Method of Procurement. Employees authorized to use the corporate credit account(s) to purchase goods and services are required to and shall be responsible for procuring goods and services pursuant to the procurement methods identified in this policy. *See* Board Policy relating to Corporate Credit Accounts, Sec. 8.10.

¹⁷ Tex. Ed. Code §12.1054; 19 TAC §§ 100.1131 through 100.1135

¹⁸ 19 TAC §100.1047(f)

¹⁹ Tex. Ed. Code §12.1166

²⁰ Tex. Ed. Code §12.115(a)(2); 2 CFR §200.303

²¹ Tex. Ed. Code §12.115(a)(2); 19 TAC §100.1043(a)(2); 2 CFR §§ 200.302(b)(4) and 200.303

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Sec. 5.6.3. Required Records. Employees authorized to use the corporate credit account(s) shall document each purchase through the corporate credit account(s). *See* Board Policy relating to Corporate Credit Accounts, Sec. 12, and Travel, Sec. 16 and 17.

Sec. 5.6.4. Failure to Document. If an employee fails to provide the required records pursuant to Sec. 5.6.3 of this policy, the employee shall be financially liable for the costs charged to the corporate card.

Sec. 5.7. EMPLOYEE PURCHASES PROHIBITED.²²

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

Sec. 5.8. OFFICER RESPONSIBLE.

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

Sec. 5.9. PURCHASE ORDER SYSTEM.²³

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

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

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

²² Ibid.

²³ Texas Business and Commerce Code §2.206(a)(2)

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Sec. 5.9.3. Failure to Properly Issue. If a School employee issues a purchase order to a vendor without the required approvals established in Subsection 5.9.1 of this policy, the employee shall be financially responsible for the purchase.

Sec. 5.10. QUALIFIED VENDORS.²⁴

Sec. 5.10.1. School officers and employees shall only procure goods and/or services from qualified vendors.

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

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

- (a) Contractor integrity.
- (b) Extent to which the goods or services meet the School's needs.
- (c) Financial and technical resources.
- (d) Quality of the vendor's goods or services.
- (e) Record of past performance, including:
 - (1) Reputation of the vendor and of the vendor's goods or services.
 - (2) Vendor's past relationship with the School and other public schools.

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

Sec. 5.11. RECEIPT OF GOODS AND SERVICES.²⁵

The Delegate or designee shall establish and maintain a system for documenting the receipt of goods and services from a vendor including the condition and number of items received, the satisfactory performance of services rendered, and any dispute with the condition and number of items or performance of services.

²⁴ Tex. Ed. Code §44.031(b); 2 CFR §200.318(h)

²⁵ Tex. Ed. Code §12.115(a)(2); 2 CFR §§ 200.303 and 200.318(b)

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Sec. 5.12. SEGREGATION OF DUTIES; CHECKS AND BALANCES.²⁶

The Delegate shall ensure an appropriate segregation of duties between the following functions:

- (a) Preparation of purchase requisitions and purchase orders;
- (b) Solicitation of quotes or preparation of requests for bids, proposals or qualifications;
- (c) Receipt of personal property and/or services and preparation of receiving report attesting to receipt of purchased property;
- (d) Receipt of invoices and reconciliation of invoices to receiving reports and purchase orders;
- (e) Preparation of payment requests;
- (f) Accounting for purchases; and
- (g) Approval for all of the above.

Sec. 5.13. SEPARATE, SEQUENTIAL OR COMPONENT PURCHASES PROHIBITED.²⁷

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

Sec. 5.14. SIGNATURE AUTHORITY.²⁸

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

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

Sec. 6. AUTHORIZED PROCUREMENT METHODS.

Except as provided in Sec. 7 of this policy for professional services and Sec. 8 of this policy for public works, School officers and employees shall procure goods and services as set forth in this Sec. 6.

²⁶ Tex. Ed. Code §12.115(a)(2); 2 CFR §§ 200.303 and 200.328

²⁷ Tex. Ed. Code §44.032

²⁸ *Ibid.*

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Sec. 6.1. PURCHASES WITH LOCAL FUNDS.²⁹

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

Sec. 6.1.2. Quotes. School officers and employees shall procure goods and services valued at the simplified acquisition threshold or more in the aggregate through the solicitation of two (2) or more written quotes from qualified vendors.

Sec. 6.2. PURCHASES WITH STATE FUNDS.³⁰

Sec. 6.2.1. No Method Required. School officers and employees may procure goods and services valued at less than the micro-purchase threshold through the most expedient manner available.

Sec. 6.2.2. Quotes. School officers and employees shall procure goods and services valued at no less than the micro-purchase threshold and at no more than the simplified acquisition threshold in the aggregate through the solicitation of two (2) or more written quotes from qualified vendors.

Sec. 6.2.3. Bids or Proposals. School officers and employees shall procure goods and services valued at the simplified acquisition threshold or more in the aggregate through the solicitation of bids or proposals, as appropriate.

Sec. 6.3. PURCHASES WITH FEDERAL FUNDS.³¹

Sec. 6.3.1. Procurement by Micro-Purchase Procedure.

Sec. 6.3.1.1. No Method Required. School officers and employees may procure supplies³² or services valued at less than the micro-purchase threshold in the aggregate through the most expedient manner available.

Sec. 6.3.1.2. Reasonableness of Price. If a micro-purchase is made without soliciting competitive quotes, School officers and employees shall document that the price is reasonable, as determined on the basis of research, experience, purchase history or other information.

²⁹ Tex. Ed. Code §12.115(a)(2)

³⁰ Tex. Ed. Code §§ 12.1053 and 12.115(a)(2); FASRG

³¹ 2 CFR §200.320; Administrator's Reference Manual, Section 17 (August 16, 2021); Tex. Ed. Code §12.115(a)(2)

³² See 2 CFR §200.1.

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Sec. 6.3.1.3. Equitable Distribution. To the maximum extent practicable, the School must distribute micro-purchases equitably among qualified vendors.

Sec. 6.3.1.4. Use of Corporate Credit. School officers and employees may use their assigned corporate credit account(s) pursuant to the administrative procedures adopted by the Delegate.

Sec. 6.3.1.5. Adoption of Higher Micro-Purchase Threshold. The Delegate may adopt a higher micro-purchase threshold pursuant to the policy directives of the Texas Education Agency or other regulatory agency.

Sec. 6.3.2. Procurement by Small Purchase Procedure.

School officers and employees shall procure property³³ or services valued at no less than micro-purchase threshold and no more than the simplified acquisition threshold in the aggregate through the solicitation of three (3) or more written competitive quotes from qualified vendors.

Sec. 6.3.3. Procurement by Sealed Bids.

Sec. 6.3.3.1. School officers and employees shall procure property³⁴ or services valued at the simplified acquisition threshold or more in the aggregate through the public solicitation of sealed bids if the necessary conditions³⁵ are present and if the applicable requirements³⁶ are met.

Sec. 6.3.3.2. The School may only award a firm fixed price contract to the responsible bidder whose bid conforms with all the material terms and conditions of the invitation for bids and is the lowest price.

Sec. 6.3.4. Procurement by Competitive Proposals.

Sec. 6.3.4.1. If the conditions are not appropriate for the use of sealed bids, School officers and employees shall procure property³⁷ or services valued at the simplified acquisition threshold or more in the aggregate through competitive proposals if the applicable requirements³⁸ are met.

Sec. 6.3.4.2. The School may award either a fixed price or cost-reimbursement type contract to the responsible offeror whose proposal is most advantageous to the non-Federal entity, with price and other factors considered.

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ *See* 2 CFR §200.320(b)(1)(i).

³⁶ *See* 2 CFR §200.320(b)(1)(ii).

³⁷ *See* 2 CFR §200.1.

³⁸ *See* 2 CFR §200.320(b)(2).

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Sec. 6.3.5. Procurement by Noncompetitive Proposals.

School officers and employees may only procure property³⁹ or services through the solicitation of a quote, bid or proposal from only one source only when one or more of the following documented circumstances apply.

- (a) The acquisition is for property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold.
- (b) The item is available only from a single source.
- (c) The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation.
- (d) The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the School.
- (e) After solicitation of a number of sources, competition is determined inadequate.

Sec. 6.3.6. Other Procurement Requirements.

The Delegate or designee shall ensure that School officers and employees procure property⁴⁰ and services in accordance with the following federal procurement standards:

- (a) Analysis of contract cost and price.⁴¹
- (b) Avoidance of unnecessary or duplicative items.⁴²
- (c) Contract provisions.⁴³
- (d) Domestic preferences.⁴⁴
- (e) Exclusion of certain contractors.⁴⁵
- (f) Maintenance of records sufficient to detail the history of a procurement.⁴⁶

³⁹ See 2 CFR §200.1.

⁴⁰ *Ibid.*

⁴¹ 2 CFR §200.324

⁴² 2 CFR §200.318(d)

⁴³ 2 CFR §200.327

⁴⁴ 2 CFR §200.322

⁴⁵ 2 CFR §200.319(b)

⁴⁶ 2 CFR §200.318(i)

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- (g) Prohibition of administratively imposed geographical preferences.⁴⁷
- (h) Required solicitation content.⁴⁸
- (i) Use of prequalified lists of vendors or products.⁴⁹
- (j) Written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.⁵⁰
- (k) Written standards of conduct covering organizational conflicts of interest.⁵¹
- (l) Other applicable legal requirements.

Sec. 6.4. PURCHASES THROUGH COOPERATIVE.⁵²

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

Sec. 6.4.2. Due Diligence. School officers and employees shall ensure that the use of Federal funds for a procurement of goods or services through a cooperative complies with the applicable Federal procurement standards. School officers and employees shall maintain supporting documentation to this effect.

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

Sec. 7. PURCHASE OF PROFESSIONAL SERVICES.⁵³

Sec. 7.1. SELECTION OF PROVIDER.

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

⁴⁷ 2 CFR §200.319(c)

⁴⁸ 2 CFR §200.319(d)

⁴⁹ 2 CFR §200.319(e)

⁵⁰ 2 CFR §200.318(c)(1)

⁵¹ 2 CFR §200.318(c)(2)

⁵² Tex. Ed. Code §§ 12.1058(a)(1) and 12.115(a)(2); FASRG; 2 CFR §200.318(e)

⁵³ Tex. Ed. Code §12.1053(b)(2); Tex. Gov't. Code Chapter 2254, Subchapter A

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

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

Sec. 7.2. CONTRACT FOR PROFESSIONAL SERVICES OF ARCHITECT, ENGINEER OR SURVEYOR.

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

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

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

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

Sec. 8. PROCUREMENT OF PUBLIC WORKS.

Sec. 8.1. RULES AND PROCEDURES.

Pursuant to Tex. Ed. Code §44.031(d) and Tex. Gov’t. Code §2269.051, the Board may adopt rules and procedures for the acquisition of goods or services related to public works, including construction services.

Sec. 8.2. DELEGATION OF AUTHORITY.

Sec. 8.2.1. Authority to Procure Construction Services. The Board may delegate its authority under Chapter 2269 regarding an action authorized or required by Chapter 2269 to a designated

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representative, committee, or other person. If the Board delegates its authority to a designated representative, committee, or other person, the School shall provide notice of the delegation, the limits of the delegation, and the name or title of each person designated by rule or in the request for bids, proposals, or qualifications or in an addendum to the request.

Sec. 8.2.2. Authority to Contract. Unless otherwise authorized by the Board, only a Board member, the Delegate, or the Delegate's designee shall be authorized to sign contracts obligating the School to disburse public funds for public works.

Sec. 8.3. AUTHORIZED METHODS OF PROCUREMENT.

Sec. 8.3.1. With the exception of the competitive bidding method, the Board shall determine which method set forth in this subsection provides the best value for the School before it advertises for requests for bids, proposals or qualifications.

Sec. 8.3.2. The School shall base its selection among offerors on applicable criteria listed for the particular method used. The School shall publish in the request for bids, proposals or qualifications the criteria that will be used to evaluate the offerors and the applicable weighted value for each criterion.

Sec. 8.3.3. Within seven (7) days after the date the contract is awarded, the School shall document the basis of its selection and shall make the evaluations, including any scores, public and provide them to all offerors.

Sec. 8.3.4. The Board or designee may award a contract for construction services using one of the following methods:

- (a) Competitive bidding,
- (b) Competitive sealed proposal,
- (c) Construction manager-agent,
- (d) Construction manager-at-risk,
- (e) Design-build, or
- (f) Job order contracts.

Sec. 8.3.5. Unless determined otherwise by the Board, the School shall procure construction services using the competitive bidding method of procurement.

Sec. 8.3.6. The Delegate may recommend to the Board a method of procurement, other than the competitive bidding method, from those listed under Subsection 6.4.3.4. In this event, the Delegate shall provide the Board with a written proposal, including the justification for utilizing a different method of procurement.

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Sec. 8.3.7. In the event that the Board determines that another procurement method is in the School's best interest, the Board's determination will be documented in the minutes to the pertinent Board meeting.

Sec. 8.3.8. The Board and School may seek legal and professional advice and counsel regarding the legal and other requirements applicable to the procurement method selected by the Board.

Sec. 8.4. NOTICE.

The School shall publish a notice of the time by when and the place where the bids or proposals, or the responses to a request for qualifications, will be received and opened. The School shall publish the notice in the county in which its central administrative office is located, once a week for at least two weeks before the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is not a newspaper in that county, the School shall publish its advertisement in a newspaper in the county nearest the county seat of the county in which its central administrative office is located. In a two-step procurement process, the School is not required to separately publish the time and place where the second-step bids, proposals, or responses will be received.

Sec. 8.5. RESPONSE TO REQUESTS FOR BIDS, PROPOSALS OR QUALIFICATIONS.

Sec. 8.5.1. Sealed Bids, Proposals or Qualifications Required. A person who submits a bid, proposal, or qualification is required to seal it before delivery. The Delegate or designee shall reject any bid, proposal or qualification that is not sealed and return it to the offeror with a statement:

- (a) Representing that the bid, proposal or qualification was not opened, viewed or otherwise examined;
- (b) Asserting that the content and form of the bid, proposal, or qualification was not duplicated or disseminated with any person or entity; and
- (c) Instructing the offeror to resubmit an appropriately sealed bid, proposal or qualification as required by state law.

Sec. 8.5.2. Receipt and Opening of Bids. The School shall receive, publicly open, and read aloud the names of the offerors and their bids. Only the Board, during a lawfully convened Board meeting, or the Board's designee, at or in School's central administrative office, may open the bids submitted by offerors. A bid that has been opened may not be changed for the purpose of

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correcting an error in the bid price. A bidder has the common law right to withdraw a bid due to a material mistake in the bid. The School is entitled to reject any and all bids.

Sec. 8.6. AWARDING OF CONTRACT UNDER COMPETITIVE BIDDING METHOD.

Sec. 8.6.1. In accordance with state law, "competitive bidding" is a procurement method by which the School may contract with a contractor for the construction, alteration, rehabilitation, or repair of a facility by awarding the contract to the lowest responsible bidder.

Sec. 8.6.2. The School may contract for the construction, alteration, rehabilitation, or repair of a facility only after it advertises for bids for the contract in a manner prescribed by law, receives competitive bids, and awards the contract to the lowest responsible bidder.

Sec. 8.7. RESPONSIBLE BIDDER DEFINED.

Sec. 8.7.1. A responsible bidder is a person who has the capability in all respects to perform in full the contract requirements and the integrity and reliability assuring good faith performance. A responsible bidder may be required to meet any or all of the following requirements.

- (a) Be an experienced contractor who has served as a prime contractor on similar construction projects for Texas public schools, has satisfactorily completed the scope of work described in the construction documents, and is knowledgeable about the requirements for the construction of and the building elements for Texas public schools including, without limitation, applicable building code requirements.
- (b) Provide a warranty and support for any equipment installed as part of the construction services and in accordance with the scope of work described in the construction documents.
- (c) Be able to obtain payment and performance bonds of the types and in the amounts described in Tex. Govt. Code §2253.
- (d) When submitting the bid, provide a Letter of Statement from a bonding company that the bidder is able to obtain both a payment bond and a performance bond described as stipulated in Tex. Govt. Code §2253.
- (e) Prior to executing the contract, obtain and provide the payment and performance bonds of the types and in the amounts established at Tex. Govt. Code §2253.
- (f) Have adequate financial resources or ability to obtain such resources as required during the performance of any resulting contract.

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- (g) Be able to comply with the required performance schedule, taking into consideration all existing business commitments.
- (h) Have necessary management and technical capability to perform any resulting contract for construction services.
- (i) Be qualified as an established firm regularly engaged in the type of business to provide the items and work required by the request for bids.
- (j) Be registered to do business in the State of Texas.
- (k) Be in good standing with the State of Texas.
- (l) Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

Sec. 8.7.2. The School must include the requirements to be used to establish an offeror as a responsible bidder in the request for bids, proposals or qualifications.

Sec. 8.8. CRITERIA TO CONSIDER.

Sec. 8.8.1. In determining the award of a contract pursuant to this section, the School may consider:

- (a) The price;
- (b) The offeror's experience and reputation;
- (c) The quality and reputation of the offeror's goods or services;
- (d) The extent to which the offeror's goods or services meet the School's needs;
- (e) The vendor's past relationship with the School;
- (f) The impact on the ability of the School to comply with rules relating to historically underutilized businesses;
- (g) The total long-term cost to the School to acquire the offeror's goods or services;
- (h) Whether the vendor or the vendor's ultimate parent company or majority owner:
 - (1) Has its principal place of business in this state; or

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- (2) Employs at least 500 persons in this state;
- (i) The offeror's safety record;
- (j) The offeror's proposed personnel;
- (k) Whether the offeror's financial capability is appropriate to the size and scope of the project; and
- (l) Any other relevant factor specifically listed in the request for bids, proposals, or qualifications.

Sec. 8.8.2. In determining the award of a contract under this chapter, the School shall:

- (a) Consider and apply any existing laws, including any criteria, related to historically underutilized businesses; and
- (b) Consider and apply any existing laws, rules, or applicable municipal charters, including laws applicable to local governments, related to the use of women, minority, small, or disadvantaged businesses.

Sec. 8.9. SAFETY RECORD OF BIDDER CONSIDERED.

Sec. 8.9.1. In determining who is a responsible bidder, the Board may take into account the safety record of the bidder, of the firm, corporation, partnership, or institution represented by the bidder, or of anyone acting for such a firm, corporation, partnership, or institution.

Sec. 8.9.2. In determining who is a responsible bidder, the Board may take into account the following definition and criteria for accurately determining the safety record of a bidder.

- (a) "Citations" include notices of violation, notices of enforcement, suspension/revocations of state or federal licenses or registrations, fines assessed pending criminal complaints, indictments, or convictions, administrative orders, draft orders, final orders, and judicial final judgments. A Notice of Violation and Notice of Enforcement received from the Texas Commission on Environmental Quality ("TCEQ") shall include those classified as major violations and moderate violations under the TCEQ'S regulations for documentation of Compliance History pursuant to Texas Administrative Code, Title 30, §60.2(d)(1) and (d)(2).
- (b) "Environmental Protection Agency" includes, but is not limited to the TCEQ, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, the Texas Department of Health, the Texas Parks and Wildlife

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Department, the Structural Pest Control Service, agencies of local governments responsible for enforcing environmental protection laws or regulations, and similar regulatory agencies of other states of the United States.

- (c) Based upon the bidder's response to certain questions, the Board will consider the following criteria and, at its discretion, determine whether to disqualify the bidder.
- (1) The revelation of more than two (2) cases in which final orders have been entered by the Occupational Safety and Health Review Commission ("OSHRC") against the bidder for serious violations of Occupational Safety & Health Administration ("OSHA") regulations within the past five (5) years.
 - (2) The revelation of more than one (1) case in which the bidder has received a citation or for which final orders have been entered from an environmental protection agency for violations within the past five (5) years.
 - (3) The revelation that the bidder has been convicted of a criminal offense within the past ten (10) years or has been subject to a judgment for a negligent act or omission, which resulted in serious bodily harm or death.

Sec. 8.9.3. Before considering the safety record of the bidder, the School must give notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of the bidder.

Sec. 8.9.4. In making determinations concerning the safety records of the bidders, the Board, Delegate, and School employees are prohibited from making the determinations in an arbitrary and capricious manner.

Sec. 8.9.5. The Delegate or designee shall prepare and submit to the Board a summary report of the information and the responses provided by the bidder for its consideration and to facilitate its determination of whether to disqualify the bidder based upon its safety record.

Sec. 8.10. NOTIFICATION OF CONTRACTOR'S CRIMINAL HISTORY.

Sec. 8.10.1. If the person or an owner or operator of the business entity has been convicted of a felony, the School should ensure that the bidder's response includes an advance notice disclosing this fact. The notice must include a general description of the conduct resulting in the conviction of a felony.

Sec. 8.10.2. The School may terminate a contract with a person or business entity if the School determines that the person or business entity failed to give notice as required by Subsection 14.1

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or misrepresented the conduct resulting in the conviction. The School must compensate the person or business entity for services performed before the termination of the contract.

Sec. 8.10.3. This subsection does not apply to a publicly held corporation.

Sec. 8.11. CONTRACT WITH PERSON INDEBTED TO SCHOOL.

Sec. 8.11.1. The Board may refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the School.

Sec. 8.11.2. For purposes of implementing this subsection, "person" includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that proposes or otherwise seeks to enter into a contract or other transaction with the School requiring approval by the Board.

Sec. 8.11.3. The Delegate or designee shall notify the Board of any debt due by an apparent low bidder or successful proposer. In the notice to the Board, the Delegate or designee must disclose:

- (a) The amount outstanding;
- (b) The date(s) of when the bidder or proposer became indebted to the School;
- (c) The cause(s) resulting in the bidder's or proposer's indebtedness;
- (d) Any adverse consequence to the School resulting from the bidder's or proposer's indebtedness;
- (e) The date of the last written correspondence to the bidder or proposer requesting the bidder's or proposer's satisfactory settlement of the indebtedness; and
- (f) The frequency of requests for settlement of the indebtedness.

Sec. 8.12. RIGHT TO WORK.

When procuring goods or services, awarding a contract or overseeing procurement or construction for a public work to which this Policy applies, the School:

- (a) May not consider whether a person is a member of or has another relationship with any organization; and

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- (b) Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization.

Sec. 8.13. CONTRACTS TO MINORITY COMPANIES.

As set forth in the charter application, the School will look for “opportunities to consummate contracts with a sizable portion to minority companies.”

Sec. 8.14. SELECTION OF ARCHITECT OR ENGINEER.

Unless the School employs an architect or engineer on a full-time basis to oversee construction projects, the School shall select the architect or engineer on the basis of demonstrated competence and qualifications as provided by Tex. Govt. Code §2254.004.

Sec. 8.15. OTHER PROFESSIONAL SERVICES.

The School shall provide or contract for the construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of a facility. The School shall select the services for which it contracts under this subsection in accordance with Tex. Govt. Code §2254.004.

Sec. 8.16. SUSPENSION OF POLICY.

If a school facility, or a portion of a school facility is destroyed, severely damaged, or experiences a major unforeseen operational or structural failure, and the Board determines that the delay posed by the contract methods required by this Policy would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the school facility, or portion of the school facility may be made by a method other than the methods required by this policy.

Sec. 8.17. CHANGE ORDERS.

Sec. 8.17.1. If a change in plans or specifications is necessary after the performance of a contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the Delegate or designee has general authority to approve change orders making the changes.

Sec. 8.17.2. The total contract price may not be increased because of the changes unless additional money for increased costs is approved for that purpose from available money or is provided for by the authorization of the issuance of time warrants.

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Sec. 8.17.3. A contract with an original contract price of \$1 million or more may not be increased under this subsection by more than 25 percent. If a change order for a contract with an original contract price of less than \$1 million increases the contract amount to \$1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.

Sec. 8.18. MONITORING AND OVERSIGHT.

Sec. 8.18.1. The Delegate or designee shall monitor and oversee all construction projects and services. The Delegate or designee shall document their monitoring and oversight activities.

Sec. 8.18.2. The Delegate or designee shall report to the Board the progress and status of any and all public works procured under this policy.

Sec. 8.18.3. The Delegate or designee shall not make any final payments for public works procured under this Policy until the work has been completed. Upon completion of a public work, the Delegate or designee shall provide a final report to the Board. Upon accepting the work performed, the Board may authorize the Delegate or designee to issue final payment(s).

Sec. 9. MONITORING OF SERVICE PROVIDER PERFORMANCE.

The Delegate or designee shall monitor the services and work of all service providers. In developing a system for monitoring the service provider's performance, the Delegate or designee shall consider the inclusion of deliverables and other measurable outcomes that demonstrate the delivery of the services procured from the service provider and that enable the Delegate or designee to evaluate the quality of the services rendered and satisfactory performance of the provider.

Sec. 10. TRAINING AND UPDATES.⁵⁴

The Delegate or designee shall properly train officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep officers and employees informed of any changes to this policy and related requirements.

⁵⁴ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

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Sec. 11. **ADMINISTRATIVE PROCEDURES.**⁵⁵

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

Sec. 12. **DATE ADOPTED AND EFFECTIVE.**

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on MDY and became effective on MDY.

Sec. 13. **RETENTION.**⁵⁶

This policy shall be retained until superseded, expired or discontinued and for five (5) years thereafter.

⁵⁵ Tex. Ed. Code § 12.115(a)(2); FASRG Module 2; 2 CFR § 200.303. Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in School's Articles of Incorporation and Bylaws and in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is the School's governing authority and, as such, manages and directs School's business and affairs through Board actions, resolutions and policy.

⁵⁶ Tex. Ed. Code § 12.1052; 19 TAC § 100.1203; *See* Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, § 7.125(a)(1).

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Sec. 14. **CERTIFICATION.**

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to the Purchasing and Contracting, as originally adopted by the Board on MDY, which Policy is in full force and effect and has not been revoked or amended.

[INSERT NAME HERE.], Secretary

Date Certified

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SEC. 1. DEFINITIONS

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

A “covered contract employee” is an individual who:

1. Is employed or offered employment by a service contractor or a subcontractor of a service contractor, is an individual independent contractor of **MOODY EARLY CHILDHOOD CENTER**, or is an individual subcontractor of a service contractor;
2. Has or will have continuing duties related to the contracted services;
3. Has or will have direct contact with students; and
4. Is not a student of (or enrolled in) **MOODY EARLY CHILDHOOD CENTER**.

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

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

A “subcontracting entity” is an entity that contracts with another entity that is not **MOODY EARLY CHILDHOOD CENTER** to provide services to **MOODY EARLY CHILDHOOD CENTER** or shared services arrangement.

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

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For guidelines on criminal history checks for public works contractors, please refer to PG-5.14 (Criminal History Checks for Public Works Contractors).

SEC. 2. CONTRACTOR RESPONSIBILITIES

Sec. 2.1. Employed Before January 1, 2008

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

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

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

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

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

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

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

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

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Sec. 2.3. Certification to MOODY EARLY CHILDHOOD CENTER

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

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

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

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

Sec. 2.4. Disqualifying Conviction

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

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

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SEC. 3. MOODY EARLY CHILDHOOD CENTER RESPONSIBILITIES

Sec. 3.1. Employed Before January 1, 2008

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

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

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

Sec. 3.3. Certification from Contractor

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

Sec. 3.4. Disqualifying Conviction

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

Sec. 3.5. SBEC Notification

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

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

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SEC. 4. EMERGENCY EXCEPTION

In the event of an emergency, MOODY EARLY CHILDHOOD CENTER may allow a covered contract employee to enter MOODY EARLY CHILDHOOD CENTER property without the required criminal history record information review if the person is accompanied by a MOODY EARLY CHILDHOOD CENTER employee. MOODY EARLY CHILDHOOD CENTER may adopt rules regarding an emergency situation. *Education Code 22.0834(f); 19 TAC 153.1117(b)(2).*

SEC. 5. CONTRACTORS PROVIDING TRANSPORTATION SERVICES

In addition to the requirements described above at “Criminal History: In General,” if MOODY EARLY CHILDHOOD CENTER contracts with a person for transportation services, MOODY EARLY CHILDHOOD CENTER shall obtain criminal history record information from any law enforcement or criminal justice agency relating to a person employed by the person as a bus driver or a person the person intends to employ as a bus driver. A person who contracts with MOODY EARLY CHILDHOOD CENTER to provide transportation services shall submit to MOODY EARLY CHILDHOOD CENTER the name and other identification data required to obtain the criminal history record information of such persons. If MOODY EARLY CHILDHOOD CENTER obtains information that such a person has been convicted of a felony or a misdemeanor involving moral turpitude, MOODY EARLY CHILDHOOD CENTER shall inform the chief personnel officer of the person with whom MOODY EARLY CHILDHOOD CENTER has contracted, and the person may not employ that person to drive a bus on which students are transported without the permission of the Board. *Education Code 22.084(a)-(b).*

Sec. 5.1. Commercial Transportation Company

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

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SEC. 1. DEFINITIONS

“Contracting entity” means an entity that contracts directly with MOODY EARLY CHILDHOOD CENTER or a shared services arrangement to provide engineering, architectural, or construction services to MOODY EARLY CHILDHOOD CENTER or the shared services **arrangement**.

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

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

Education Code 22.08341.

SEC. 2. APPLICABILITY OF POLICY

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

1. Continuing duties related to the contracted services; and
2. The opportunity for direct contact with students in connection with the person’s continuing duties.

Education Code 22.08341(b).

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

1. The public work does not involve the construction, alteration, or repair of an instructional facility;

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**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
MANUAL**

**POLICY GROUP 5 – FISCAL MANAGEMENT
CRIMINAL HISTORY CHECKS FOR
PUBLIC WORKS CONTRACTORS**

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

Education Code 22.08341(c).

SEC. 3. DISQUALIFYING CRIMINAL HISTORIES

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

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

Education Code 22.08341(d).

SEC. 4. DUTIES OF CONTRACTING OR SUBCONTRACTING ENTITIES

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

1. Send or ensure that the person sends to the Texas Department of Public Safety (the "Department") information that is required by the Department for obtaining national criminal history record information, which may include fingerprints and photographs;
2. Obtain all criminal history record information that relates to the person through the criminal history clearinghouse as provided by Section 411.0845, Government Code; and

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3. Certify to MOODY EARLY CHILDHOOD CENTER, shared services arrangement, or contracting entity, as applicable, that the contracting entity or subcontracting entity that employs the person has received all criminal history record information relating to the person.

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

Education Code 22.08341(e)-(f).

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

Education Code 22.08341(i).

SEC. 5. CRIMINAL HISTORY RECORD INFORMATION OBTAINED BY MOODY EARLY CHILDHOOD CENTER

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

Education Code 22.08341(h).

SEC. 6. EMERGENCY EXCEPTION

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

DISCLAIMER

This template provides Texas open-enrollment charter holders and their open-enrollment charter schools with a sample policy pertaining to internal audits. The policy included in this template is not all-inclusive and only addresses the minimum requirements established by applicable or relevant legal requirements and best practice. Consequently, users may need to include additional policy statements addressing their unique local requirements. Lastly, users should consult with a legal or other qualified advisor to guide them in the development and maintenance of a policy that is consistent with the applicable or relevant legal requirements addressed in this template.

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**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
MANUAL**
POLICY GROUP 5 – FISCAL MANAGEMENT
AUTHORITY OVER FISCAL MATTERS

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PG-5.910: INTERNAL AUDITS

Sec. 1. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the “Board”) of MOODY EARLY CHILDHOOD CENTER doing business as MOODY EARLY CHILDHOOD CENTER (hereafter, the “School”) shall address the legal requirements, as applicable, promulgated at:

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

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

Sec. 2. AUTHORITY OVER FISCAL MATTERS.

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

Sec. 2.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, shall report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,¹ interested² or related³ party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 2.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase “or designee”), the Delegate may confer such authority to a single designee.

¹ Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135

² 19 TAC § 100.1047(f)

³ Tex. Ed. Code § 12.1166

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Sec. 3. PURPOSE.

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

Sec. 4. OVERSIGHT.

The Board's Audit Committee shall oversee and direct the activities of internal audits. However, the Board shall have final authority over internal audits, including any authority delegated to the Audit Committee under this policy.

Sec. 5. CHARTER.

The Audit Committee shall adopt a charter for internal audits.

Sec. 6. STANDARDS.

The Audit Committee shall require that internal audits conduct its work pursuant to the *International Standards for the Professional Practice of Internal Auditing* and other applicable professional auditing standards.

Sec. 7. ACCESS TO PERSONNEL, PROPERTY, AND RECORDS.

School officers and employees shall provide internal audits with access to any and all personnel, property, and records. If a School officer or other employee fails to provide internal audits said access, internal audits shall report the employee's failure to provide access to the Audit Committee.

Sec. 8. RECOMMENDATIONS.

The Delegate or other officers may recommend or submit a request to the Audit Committee that internal audits conduct an inquiry to address perceived or known concerns or issues.

Sec. 9. PROHIBITED CONDUCT.

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

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Sec. 10. ANNUAL RISK ASSESSMENT.

Internal audits shall conduct an annual risk assessment and present the results to the Audit Committee. The Audit Committee shall prioritize the identified risks that internal audits shall then address in the annual audit plan.

Sec. 11. ANNUAL AUDIT PLAN.

Internal audits shall prepare an annual audit plan that addresses the risks prioritized by the Audit Committee, identifies the assurance and consulting work that it will perform, provides a timeline for the conduct of its work, allocates staff, financial, and other resources to the planned work, and discloses the deliverables that it will submit to the Audit Committee.

Sec. 12. BUDGET.

Internal audits shall prepare and submit a Proposed Budget⁴ to the Audit Committee separately from that prepared by the Delegate under the Board's Policy relating to the Authorization for the Obligation and Expenditure of Funds. Upon review and approval of the Proposed Budget, the Audit Committee shall submit the Proposed Budget to the Board for its consideration, revision, and approval. In like manner, internal audits shall submit any Proposed Amendment⁵ to the Adopted Budget⁶ to the Audit Committee for review, revision, and approval.

Sec. 13. LIAISON TO INDEPENDENT AUDITOR.

Internal audits shall liaise with the certified public accountant engaged to conduct the annual financial and compliance audit. As liaison, internal audits shall coordinate and facilitate the efficient and effective conduct of the annual audit.

Sec. 14. ADMINISTRATIVE SUPPORT.

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

- (a) an adequate, equipped, furnished, and secure office comparable to all of the School's other offices; and

⁴ See PG-5.020, Sec. 3.1.

⁵ See PG-5.020, Sec. 4.1.

⁶ See PG-5.020, Sec. 3.7.

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- (b) accounting, information technology, payroll, purchasing, travel, and other essential administrative services comparable to those provided to all of the School’s other offices; and
- (c) human resource administration.

Sec. 15. TRAINING AND UPDATES.⁷

The Delegate or designee shall properly train officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee shall keep officers and employees informed of any changes to this policy and related requirements.

Sec. 16. ADMINISTRATIVE PROCEDURES.⁸

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

Sec. 17. DATE ADOPTED AND EFFECTIVE.

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on MDY and became effective on MDY.

⁷ 2 CFR § 200.303(a), U.S. Government Accountability Office *Standards for Internal Control in the Federal Government*, 4.02 and 4.05.

⁸ Tex. Ed. Code §12.115(a)(2); FASRG Module 2; 2 CFR §200.303. Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in School’s Articles of Incorporation and Bylaws and in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is School’s governing authority and, as such, manages and directs School’s business and affairs through Board actions, resolutions and policy.

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Sec. 18. **RETENTION.**⁹

This policy shall be retained until superseded, expired, or discontinued and for five (5) years thereafter.

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⁹ Tex. Ed. Code §12.1052; 19 TAC §100.1203; *See* Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, §7.125(a)(1).

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SEC. 11. CERTIFICATION.

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to Internal Audits, as originally adopted by the Board on MDY, which Policy, as amended, is in full force and effect and has not been revoked or amended.

[INSERT NAME HERE.], Secretary

Date Certified



2022-2023
SPECIAL EDUCATION
OPERATING PROCEDURES MANUAL

**2020-2021 SPECIAL EDUCATION
OPERATING PROCEDURES MANUAL**

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GLOSSARY OF ACRONYMS

A. Legal References

CFR	Code of Federal Regulations
IDEA	Individuals with Disabilities Education Act
TEC	Texas Education Code
TAC	Texas Administrative Code
USC	United States Code

B. Special Education Terms

ARD	Admission, Review, Decision
ATD	Assistive Technology Device
BIP	Behavior Intervention Plan
CTE	Career and Technical Education
ECI	Early Childhood Intervention
ESY	Extended School Year
FAPE	Free Appropriate Public Education
FBA	Functional Behavior Assessment
FIE	Full and Individual Initial Evaluation
IEP	Individualized Education Program
LRE	Least Restrictive Environment
PLAAFP	Present Levels of Academic Achievement and Functional Performance
REED	Review of Existing Evaluation Data
TEKS	Texas Essential Knowledge and Skills

C. Entities

ESC	Education Service Center
OSEP	Office of Special Education Programs
TEA	Texas Education Agency

I. CHILD FIND

A. Legal Requirements

MOODY EARLY CHILDHOOD CENTER shall ensure that all children who have disabilities, regardless of the severity of their disabilities, and who are in need of special education and related services are evaluated. This requirement applies to:

20 USC § 1412(a)(3)(A); 34 § CFR 300.111(a)(1)(i), (c). Child Find is the obligation of the **MOODY EARLY CHILDHOOD CENTER** and staff shall not wait on parents to request an evaluation for special education services if staff suspect that the student (1) has a disability and (2) is in need of special education and related services.

Referral of students for a full individual and initial evaluation for possible special education services must be a part of the school'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; response to evidence-based intervention; and other academic or behavior support 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 individual and initial evaluation. 19 TAC § 89.1011(a). This section shall not be used as a basis to delay an evaluation if the school suspects that the student (1) has a disability and (2) is in need of special education and related services.

1. Parent Request

If a parent submits a written request to the a district administration or **MOODY EARLY CHILDHOOD CENTER** administrative employee for a full individual and initial evaluation of a student, the **MOODY EARLY CHILDHOOD CENTER** must, not later than the 15th school day after the date it receives the request: (1) provide the parent with prior written notice of its proposal to conduct an evaluation consistent with 34 CFR § 300.503; a copy of the procedural safeguards notice required by 34 CFR § 300.504; and an opportunity to give written consent for the evaluation; or (2) provide the parent with prior written notice of its refusal to conduct an evaluation consistent with 34 CFR § 300.503, and a copy of the procedural safeguards notice required by 34 CFR § 300.504. 19 TAC § 89.1011(b).

2. Initial Evaluation Timelines

Except as otherwise provided in this section, a written report of a full individual and initial evaluation of a student must be completed as follows: (1) not later than the 45th school day following the date on which the **MOODY EARLY CHILDHOOD CENTER** receives written consent for the evaluation from the student's parent, except that if a student has been absent from school during that period on three or more school days, that period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent; or (2) for students under five years of age by September 1 of the school year and not enrolled in public school and for students enrolled in a private or homeschool setting, not later than the 45th school day following the date on which the **MOODY EARLY**

CHILDHOOD CENTER receives written consent for the evaluation from the student's parent. 19 TAC § 89.1011(c).

3. *Timeline for Initial ARD Meeting*

The admission, review, and dismissal (ARD) committee must make its decisions regarding a student's initial eligibility determination and, if appropriate, individualized education program (IEP) and placement within 30 calendar days from the date of the completion of the written full individual and initial evaluation report. If the 30th day falls during the summer and school is not in session, the student's ARD committee has until the first day of classes in the fall to finalize decisions concerning the student's initial eligibility determination, IEP, and placement, unless the full individual and initial evaluation indicates that the student will need extended school year services during that summer. 19 TAC § 89.1011(d).

4. *Special Considerations for Initial Evaluation Timeline*

Notwithstanding the timelines in subsections (c) and (d) of this section, if the MOODY EARLY CHILDHOOD CENTER received the written consent for the evaluation from the student's parent at least 35 but less than 45 school days before the last instructional day of the school year, the written report of a full individual and initial evaluation of a student must be provided to the student's parent not later than June 30 of that year. The student's ARD committee must meet not later than the 15th school day of the following school year to consider the evaluation. If, however, the student was absent from school three or more days between the time that the MOODY EARLY CHILDHOOD CENTER received written consent and the last instructional day of the school year, the timeline in subsection (c)(1) of this section applies to the date the written report of the full individual and initial evaluation is required. If an initial evaluation completed not later than June 30 indicates that the student will need extended school year services during that summer, the ARD committee must meet as expeditiously as possible. 19 TAC § 89.1011(e). *School day* does not include a day that falls after the last instructional day of the spring school term and before the first instructional day of the subsequent fall school term. 19 TAC § 89.1011(g).

5. *Procedures for Completing Initial Evaluation When Student Transfers*

If a student was in the process of being evaluated for special education eligibility by a school district or open-enrollment charter school and enrolls in another school district or open-enrollment charter school before the previous school completed the full individual and initial evaluation, the new school must coordinate with the previous school as necessary and as expeditiously as possible to ensure a prompt completion of the evaluation in accordance with 34 CFR § 300.301(d)(2) and (e) and § 300.304(c)(5). The timelines do not apply in such a situation if: (1) the new school is making sufficient progress to ensure a prompt completion of the evaluation; and (2) the parent and the new school agree to a specific time when the evaluation will be completed. 19 TAC § 89.1011(f).

6. *Students with Dyslexia and Related Disorders*

MOODY EARLY CHILDHOOD CENTER shall identify, locate, and evaluate students with suspected dyslexia in accordance with the procedures adopted in [*The Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders*](#), 2021 Update.

B. Policies

MOODY EARLY CHILDHOOD CENTER has adopted applicable policies to implement its Child Find duties. **MOODY EARLY CHILDHOOD CENTER** incorporates by reference the following policies:

1. *Child Find Duty*
2. *Dyslexia Services*
3. *Referral for Possible Special Education Services*
4. *Ages 0-5*
5. *Children Who Transfer*

These policies identify staff responsible, applicable timelines, and evidence of practice. **MOODY EARLY CHILDHOOD CENTER** shall maintain sufficient records regarding Child Find activities. In the event a student receives intervention services, the school shall maintain records regarding implementation of the intervention services. A decision regarding evaluation for special education should be made in a timely manner following the provision of intervention services to a student.

Students who are evaluated and determined by an ARD committee to not be eligible for special education under the IDEA shall be considered for Section 504 eligibility.

C. Resources

MOODY EARLY CHILDHOOD CENTER incorporates by reference the following resources regarding Child Find to assist it with complying with federal, state, and local obligations to identify, locate, and evaluate students with suspected disabilities who are in need of special education.

- [Technical Assistance: Child Find & Evaluation](#)
- [Section 504](#)
- [Response to Intervention \(TEA\)](#)

II. EVALUATION

A. Legal Requirements

1. Full and Individual Evaluation

MOODY EARLY CHILDHOOD CENTER shall ensure that upon completion of the administration of such tests and other evaluation materials administered according to the evaluation procedures of the IDEA, and preparation of the written report, the ARD committee determines if the student is a student with a disability under state and federal standards.

MOODY EARLY CHILDHOOD CENTER shall conduct a full and individual initial evaluation (FIE) prior to providing special education and related services to any student. All students must be evaluated in accordance with the IDEA and Texas Education Code (TEC).

MOODY EARLY CHILDHOOD CENTER shall have in place procedures to ensure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of students with disabilities are selected and administered so as to not be racially, culturally, or gender discriminatory. Assessment and procedures shall be provided and administered in the student's native language or most proficient mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so. 34 CFR § 300.301; TEC § 29.310.

All implementing assessment procedures must differentiate between language proficiency and handicapping condition. Additionally, placement procedures must ensure that placement in a bilingual education or English as a second language program is not refused solely because the student has a disability. 19 TAC § 89.1230.

No single procedure shall be the sole criterion for determining whether a student is a student with a disability or for determining an appropriate education program for a student with a disability. The evaluation must be sufficiently comprehensive to identify all of the student's special education and related services' needs. Each student must be evaluated in all suspected areas of disability. 34 CFR §§ 300.301, 300.304; TEC § 29.310

All assessments must be administered in accordance with the instructions provided and by a trained and knowledgeable person. 34 CFR §§ 300.301, 300.304.

2. Special Learning Disability Evaluation

The Texas Education Agency (TEA) cannot require **MOODY EARLY CHILDHOOD CENTER** to use the severe discrepancy between intellectual ability and achievement for determining whether a student has a specific learning disability. TEA must permit the use of a process based on the child's response to scientific, research-based intervention; and may permit the use of other alternative research-based procedures for determining whether a student has a specific learning disability. 34 CFR § 300.307

The evaluation process for specific learning disability includes an observation of the child in the learning environment, including the regular classroom setting, to document academic performance and behavior in the areas of difficulty. 34 CFR § 300.310(a).

3. Functional Behavior Assessment

A formal functional behavior assessment (FBA) may be necessary for a student whose behavior impedes their education. Prior to completing a formal FBA, **MOODY EARLY CHILDHOOD CENTER** shall get consent from the parent. 34 CFR § 300.9.

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

4. Review of Existing Evaluation Data (REED)

A Review of Existing Evaluation Data (REED) is required as part of an initial evaluation, if appropriate, and as part of any reevaluation. The REED must be conducted by the ARD committee members and other qualified professionals, as appropriate. The ARD committee members may conduct the review without a meeting.

The REED must include a review of the following:

1. Evaluations and information provided by the parents of the student;
2. Current classroom-based, local, or State assessments, and classroom-based observations; and
3. Observations by teachers and related services providers.

On the basis of that review, and input from the student's parents, the ARD committee members must identify what additional data, if any, are needed to determine:

1. Whether the student is a student with a disability, and the educational needs of the student, or, in case of a reevaluation of a student, whether the student continues to have such a disability and the educational needs of the student;
2. Whether the student needs special education and related services, or in the case of a reevaluation of a student, whether the student continues to need special education and related services;
3. The present levels of academic achievement and related developmental needs of the student; and
4. Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student and to participate, as appropriate, in the general education curriculum.

MOODY EARLY CHILDHOOD CENTER shall administer any assessments or other evaluation measures needed to produce the data identified by the REED in accordance with applicable procedural requirements regarding notice and consent.

If additional data is not needed, the ARD committee must notify the parent of the determination decision and provide information about the parent's right to request additional assessments to determine student needs and eligibility. 34 CFR § 300.305.

MOODY EARLY CHILDHOOD CENTER shall conduct a reevaluation of the student if the school determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation or if the child's parent or teacher requests a reevaluation. A reevaluation may not occur more than once per year, unless agreed to by the school and the parent. A reevaluation must occur at least every three years, unless the school and parent agree the evaluation is unnecessary. 34 CFR § 300.303.

5. Change in Eligibility

MOODY EARLY CHILDHOOD CENTER shall evaluate a student with a disability before determining a student is no longer eligible for special education and related services.

An evaluation is not required if a student is no longer eligible due to graduation or exceeding the age eligibility in Texas. **MOODY EARLY CHILDHOOD CENTER** shall create a summary of performance and include recommendations on how to assist the student in meeting postsecondary goals. 34 CFR § 300.305(e).

6. Consideration of Services Provided in Regular Education Setting

To ensure that underachievement in the student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group of qualified professionals, as part of a full and individual evaluation, must consider:

1. Data that demonstrate that prior to, or as part of, the referral process, the student was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
2. Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of progress during instruction, which was provided to the student's parents.

34 CFR § 300.309(b).

7. Coordination of Evaluations with Prior and Subsequent Schools

The school shall ensure that evaluations of students who transfer from one LEA to another in the same academic year are coordinated with the student's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations. 20 USC § 1414(b)(3)(D).

8. Psychological 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, **MOODY EARLY CHILDHOOD CENTER** shall provide to the child's parent:

1. The name and type of the examination or test; and
2. An explanation of how the examination or test will be used to develop an appropriate IEP for the child.

If **MOODY EARLY CHILDHOOD CENTER** determines that an additional examination or test is required for the evaluation of a child's need for special education, **MOODY EARLY CHILDHOOD CENTER** shall provide the information above to the parent regarding the additional examination or test and shall obtain additional consent for the examination of test. TEC § 29.0041(a), (b).

If **MOODY EARLY CHILDHOOD CENTER** determines that an additional examination or test is required for the evaluation, **MOODY EARLY CHILDHOOD CENTER** shall provide the information required by TEC § 29.0041(a) and shall obtain parental consent. If a parent does not give consent within 20 calendar days after the School provides the information, the parent's consent is considered denied.

The time required for **MOODY EARLY CHILDHOOD CENTER** to provide information and seek consent may not be counted toward the timeframe for completion of an evaluation. TEC § 29.0041.

9. Independent Educational Evaluations

The parent of a student with a disability has the right to obtain an independent educational evaluation (IEE) of the parent's child if the parent disagrees with the evaluation of the student that was obtained by the open-enrollment charter school. IEE means an evaluation conducted by a qualified examiner who is not employed by the school responsible for the education of a student.

If the parent requests an IEE, **MOODY EARLY CHILDHOOD CENTER** must provide the parent with information about where the parent may obtain an independent educational evaluation and about the open-enrollment charter school's criteria that apply to IEE.

i. IEE at Public Expense

Public expense means that the open-enrollment charter school either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with the provisions of Part B of IDEA, which allow each State to use whatever State, local, Federal, and private sources of support are available in the State to meet the requirements of Part B of IDEA.

The parent has the right to request an IEE of the parent's child at public expense if the parent disagrees with an evaluation of the student completed by **MOODY EARLY CHILDHOOD CENTER**.

ii. Conditions

If the parent requests an IEE, **MOODY EARLY CHILDHOOD CENTER** must respond to the parent by either:

1. Without unnecessary delay, file a due process complaint to request a hearing to show that its evaluation of the student is appropriate; or
2. Provide an IEE at public expense, unless the open-enrollment charter school demonstrates in a due process hearing that the evaluation of the student that the parent obtained did not meet the open-enrollment charter school's criteria.

If **MOODY EARLY CHILDHOOD CENTER** requests a hearing and the final decision is that the open-enrollment charter school's evaluation of the student is appropriate, the parent still has the right to an IEE, but not at public expense.

iii. Criteria and Procedure

If the parent requests an IEE of the student, **MOODY EARLY CHILDHOOD CENTER** may ask why the parent objects to the evaluation of the student obtained by **MOODY EARLY CHILDHOOD CENTER**; however, **MOODY EARLY CHILDHOOD CENTER** may not require an explanation and may not unreasonably delay either providing the IEE of the student at public expense or filing a due process complaint to request a due process hearing to defend **MOODY EARLY CHILDHOOD CENTER**'s evaluation of the student.

The parent is entitled to only one IEE of the student at public expense each time the open-enrollment charter school conducts an evaluation of the student with which the parent disagrees. 34 CFR § 300.502.

The criteria under which the independent evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.

The evaluator conducting an IEE of a child with a disability at public expense must be located within a 100-mile radius of **MOODY EARLY CHILDHOOD CENTER**. This will allow the evaluator access to **MOODY EARLY CHILDHOOD CENTER** for observation of the student and access to the student's cumulative and special education eligibility folders.

Parents are free to select whomever they choose to perform the IEE, so long as the examiner meets **MOODY EARLY CHILDHOOD CENTER**'s in conjunction with the **MOODY EARLY CHILDHOOD CENTER** criteria. **MOODY EARLY CHILDHOOD CENTER** will pay a fee for an IEE that allows a parent to choose from among qualified professionals in the area.

Parents will be offered the opportunity to demonstrate to their child's ARD committee that unique circumstances exist which justify an IEE that does not meet **MOODY EARLY CHILDHOOD CENTER** in conjunction with the **MOODY EARLY CHILDHOOD CENTER** criteria.

When evaluators have a sliding scale fee based on parent income, **MOODY EARLY CHILDHOOD CENTER** will pay the amount charged to the parent if the evaluator meets **MOODY EARLY CHILDHOOD CENTER** criteria or **MOODY EARLY CHILDHOOD CENTER** has approved the IEE that does not meet **MOODY EARLY CHILDHOOD CENTER** criteria.

In the event a parent pursues an IEE independently or pursues an IEE provider that is not on **MOODY EARLY CHILDHOOD CENTER** independent evaluator list, **MOODY EARLY CHILDHOOD CENTER** will determine if the evaluator meets **MOODY EARLY CHILDHOOD CENTER** criteria prior to authorizing payment or reimbursement. If payment will be authorized, an original billing form and an original written report with original signature must be submitted to **MOODY EARLY CHILDHOOD CENTER** prior to payment.

MOODY EARLY CHILDHOOD CENTER will deny payment for an IEE conducted by an evaluator who does not meet **MOODY EARLY CHILDHOOD CENTER** criteria. **MOODY EARLY CHILDHOOD CENTER** will deny payment for an IEE that does not meet Texas Education Agency criteria for the specific disability identified.

If a hearing officer requests an IEE as part of a hearing on a due process complaint, the cost of the evaluation must be at public expense.

Travel costs for evaluators will not exceed **MOODY EARLY CHILDHOOD CENTER** rates for travel as established by state guidelines.

A contract for an IEE between an evaluator and **MOODY EARLY CHILDHOOD CENTER** will not exceed one year. All terms will become void after the expiration date of one year.

The evaluator conducting the IEE must meet **MOODY EARLY CHILDHOOD CENTER** criteria and possess comparable credentials to the examiner that conducted the evaluation that is in dispute.

Evaluators must possess current licensure/certification to conduct the evaluation and must provide copies of his or her license or certification with the evaluation, if not previously provided.

Evaluators must comply with all requirements specified in state and federal law, including those outlined in the professional board responsible for providing the license or certification.

Evaluators must meet the examiner qualifications for the tests administered as outlined by the test producer.

The evaluator will have access to the student's cumulative folder and special education folders in gathering information about the student.

The evaluator will have the ability to interview teachers and observe the student in the educational setting.

Prior to conducting the assessment, the evaluator agrees to submit to a national criminal history review and to provide any and all information necessary to secure the national criminal history review, including fingerprints and photographs, or other information required by TEC § 22.0834 concerning Contractor or Contractor's Subcontractors.

The evaluator agrees to conduct a thorough evaluation in the area(s) performed by **MOODY EARLY CHILDHOOD CENTER** with which the parent disagrees.

Copies of protocols must be provided to **MOODY EARLY CHILDHOOD CENTER**.

Except for the criteria described above, an open-enrollment charter school may not impose conditions or timelines related to obtaining an IEE at public expense. 34 CFR § 300.502(e).

iv. Results of IEE

The report must comply with all federal and state requirements, including addressing the presence or absence of a disability condition as defined under the IDEA and the TEC.

The evaluation must be provided to **MOODY EARLY CHILDHOOD CENTER** upon completion.

If the parent obtains an IEE at public expense or shares with the charter an evaluation obtained at private expense, the results of the evaluation must be considered in any decision made with respect to the provision of a free appropriate public education to the child, so long as the criteria listed above are met. The results of such evaluation may also be presented by any party as evidence at a hearing on a due process complaint regarding the child.

B. Policies

MOODY EARLY CHILDHOOD CENTER in conjunction with the **MOODY EARLY CHILDHOOD CENTER** has adopted policies to implement its evaluation duties. **MOODY EARLY CHILDHOOD CENTER** in conjunction with incorporates by reference the following policies:

1. *Review of Existing Evaluation Data*
2. *Evaluation Procedures*
3. *Disabilities*
4. *Disabilities – Autism*

5. *Disabilities – Deaf Blindness*
6. *Disabilities – Deaf or Hard of Hearing*
7. *Disabilities – Emotional Disturbance*
8. *Disabilities – Intellectual Disability*
9. *Disabilities – Multiple Disabilities*
10. *Disabilities – Noncategorical Early Childhood*
11. *Disabilities – Orthopedic Impairment*
12. *Disabilities – Specific Learning Disability*
13. *Disabilities – Speech or Language Impairment*
14. *Disabilities – Traumatic Brain Injury*
15. *Disabilities – Visual Impairment*
16. *Independent Educational Evaluation*

These policies identify staff responsible, applicable timelines, and evidence of practice. **MOODY EARLY CHILDHOOD CENTER** in conjunction with the **MOODY EARLY CHILDHOOD CENTER** shall maintain sufficient records regarding evaluation activities.

C. Resources

MOODY EARLY CHILDHOOD CENTER incorporates by reference the following resources regarding evaluation procedures and disability eligibilities to assist it with complying with federal, state, and local requirements for evaluations.

- [TEA Guidance on Review of Existing Evaluation Data](#)
- [Texas Autism Resource Guide for Effective Teaching \(TARGET\)](#)
- [Texas Deafblind Project \(TSBVI\)](#)
- [§89.1040 Eligibility Criteria Frequently Asked Questions \(TEA\)](#)
- [Response to Intervention \(TEA\)](#)
- [The Texas Center for Learning Disabilities](#)
- [Traumatic Brain Injury \(TEA\)](#)
- [Texas School for the Blind and Visually Impaired \(TSBVI\)](#)
- [2015 Educating Students with Visual Impairments in Texas: Guidelines and Standards \(TSBVI\)](#)
- [The Dyslexia Handbook, 2021 Update \(TEA\)](#)

III. FREE APPROPRIATE PUBLIC EDUCATION

A. Legal Requirements

1. Free Appropriate Public Education

MOODY EARLY CHILDHOOD CENTER shall make available to all students a free appropriate public education (FAPE). 20 USC § 1401(9), 1414(d); 34 § CFR 300.101. A FAPE means special education and related services that:

1. Are provided at public expense, under public supervision and direction, and without charge;
2. Meet the standards of TEA; and
3. Include preschool (if provided), elementary, or secondary school education; and
4. Are provided in conformity with the student's IEP.

34 CFR § 300.101. An IEP means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with the IDEA and its implementing regulations.

2. Admission, Review, and Dismissal Committee

MOODY EARLY CHILDHOOD CENTER shall establish an ARD committee for each eligible student with a disability and for each student for whom an FIE is conducted. The ARD committee is the:

1. Group that determines whether the child is a child with a disability and the educational needs of the child;
2. IEP team defined in federal law and regulations that develops the IEP; and
3. Group that determines the educational placement of the child.

i. Membership: General

An ARD committee must include the following members:

1. The parents of the student;
2. Not less than one regular education teacher of the student (if the student is, or may be, participating in the regular education environment) who must, to the extent practicable, be a teacher who is responsible for implementing a portion of the student's IEP;
3. Not less than one special education teacher of the student, or where appropriate, not less than one special education provider of the student;
4. A representative of **MOODY EARLY CHILDHOOD CENTER** who:
 - a. Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities;
 - b. Is knowledgeable about the general education curriculum; and

- c. Is knowledgeable about the availability of resources of the district;
- 5. An individual who can interpret the instructional implications of evaluation results;
- 6. At the discretion of the parent or the district, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate;
- 7. The student with a disability, whenever appropriate, including when the purpose of the meeting will be the consideration of postsecondary goals and transition goals;
- 8. To the extent appropriate, with the consent of the parents or a student who has reached the age of majority, a representative of any participating agency that is likely to be responsible for providing or paying for transition services;
- 9. A representative from career and technical education (CTE), preferably the teacher, when considering initial or continued placement of a student in CTE; and
- 10. If the student is identified as an English language learner, a professional staff member who is on the language proficiency assessment committee.

34 CFR § 300.321; 19 TAC 89.1050. The special education teacher or special education provider that participates in the ARD committee meeting must be appropriately certified or licensed. The determination of the knowledge or special expertise of any individual must be made by the party (parents or charter school) who invited the individual to be a member of the ARD committee.

ii. Membership: Specific Eligibilities and Circumstances

If the student is a student with:

- 1. A suspected or documented visual impairment, the ARD committee must include a teacher who is certified in the education of students with visual impairments;
- 2. A suspected or documented auditory impairment, the ARD committee must include a teacher who is certified in the education of students with auditory impairments; or
- 3. Suspected or documented deaf-blindness, the ARD committee must include a teacher who is certified in the education of students with visual impairments and a teacher who is certified in the education of students with auditory impairments.

34 CFR § 300.321; 19 TAC § 89.1050. If the student was previously served under the Early Childhood Intervention (ECI) program, at the request of the parent, the ARD committee must include, by invitation to the initial ARD committee meeting, the ECI service coordinator or other representatives of the ECI system.

In the case of an ARD committee meeting convened to discuss the expulsion and discretionary placement in the Juvenile Justice Alternative Education Program (JJAEP) of a child with a disability in a county with a JJAEP, for an offense for which a school district may expel a child and discretionarily place the child in JJAEP, a local school district must invite the administrator of the JJAEP or the administrator’s designee, including:

- 1. The school district must provide written notice of the meeting at least five school days before the meeting or a shorter time frame agreed to by the child’s parents;

2. A copy of the child's current IEP must be provided to the JJAEP representative with the notice;
3. If the JJAEP representative is unable to attend the ARD committee meeting, the representative must be given the opportunity to participate in the meeting through alternative means, including conference telephone calls; and
4. The JJAEP representative may participate in the meeting to the extent that the meeting relates to the child's placement in the JJAEP and implementation of the child's current IEP in the JJAEP.

TEC § 37.007, 19 TAC § 89.1052.

iii. Adult Student

The ARD committee must include an adult student after a transfer of rights in accordance with 34 CFR § 300.520, 19 TAC § 89.1049, and TEC § 29.017. The adult student or the charter school may invite individuals who have knowledge or special expertise regarding the adult student, including the parent, to be a member of the ARD committee.

iv. Attendance and Excusal

An ARD committee member is not required to attend an ARD committee meeting, in whole or in part, if the parent and **MOODY EARLY CHILDHOOD CENTER** agree in writing that the member's attendance is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting. 34 CFR § 300.321; 19 TAC § 89.1050.

When an ARD committee member's area of the curriculum or related services is being modified or discussed in the ARD committee meeting, the member may be excused from attending the meeting, in whole or in part, if the parent and charter school agree in writing to the excusal and the member submits, in writing, to the parent and ARD committee input into the development of the IEP before the meeting. 34 CFR § 300.321; 19 TAC § 89.1050.

The excusal requirements do not apply to the parent, the child with a disability, an adult student following a transfer of rights, or a discretionary member.

3. Parent Participation

MOODY EARLY CHILDHOOD CENTER shall provide to the parent a copy of the [*Parent's Guide to the Admission, Review and Dismissal Process*](#) (February 2021):

1. As soon as practicable after a referral for possible special education services, but at least five school days before the initial ARD committee meeting; and
2. At any other time on reasonable request of the child's parent.

TEC § 26.0081. **MOODY EARLY CHILDHOOD CENTER** shall take steps to ensure that one or both of the parents are present at each ARD committee meeting or are afforded the

opportunity to participate. 34 CFR § 300.322, 300.501; 19 TAC § 89.1050. **MOODY EARLY CHILDHOOD CENTER** will notify the parents of the meeting early enough to ensure that they will have an opportunity to attend and schedule the meeting at a mutually agreed upon time and place.

MOODY EARLY CHILDHOOD CENTER shall act to ensure that the parent understands the proceedings of the ARD committee meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.

MOODY EARLY CHILDHOOD CENTER shall allow parents who cannot attend an ARD committee meeting to participate in the meeting through other methods such as through telephone calls or video conferencing. 34 CFR § 300.328.

i. Notice of ARD Committee Meeting

MOODY EARLY CHILDHOOD CENTER shall provide the parents with written notice of the ARD committee meeting that meets the requirements at least five (5) school days before the meeting unless the parents agree to a shorter time frame. 34 CFR § 300.322; 19 TAC § 89.1050. The notice must:

1. Indicate the purpose, time, and location of the meeting and who will be in attendance;
2. Inform the parents of their right to include other individuals on the ARD committee who have knowledge or special expertise about the child; and
3. Inform the parents of their right to request the participation of the Part C service coordinator or other representatives of the Part C system at the initial ARD committee meeting for a child previously served under Part C of the IDEA.

19 TAC § 89.1050. Beginning not later than the first IEP to be in effect when a student turns 16, or younger if determined appropriate by the ARD committee, the notice also must also indicate:

1. That a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child; and
2. That the charter school will invite the student; and
3. The identity of any other agency that will be invited to send a representative with the consent of the parents or adult student.

If the parent is unable to speak English, **MOODY EARLY CHILDHOOD CENTER** will provide the parent with a written notice of an ARD committee meeting in the parent's native language, unless it is clearly not feasible to do so. If the parent's native language is not a written language, **MOODY EARLY CHILDHOOD CENTER** will take steps to ensure that the notice is translated orally or by other means to the parent in the parent's native language or other mode of communication so that the parent understands the content of the notice. 19 TAC § 89.1050.

ii. Holding an ARD Committee Meeting without a Parent

MOODY EARLY CHILDHOOD CENTER may conduct an ARD committee meeting without the parent in attendance if the charter school is unable to convince the parent to attend. 34 CFR § 300.322. The charter school will keep a record of its attempts to arrange a meeting at 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 parent and any responses received; and/or
3. Detailed records of visits made to the parent's home or place of employment and the results of those visits.

34 CFR § 300.322.

iii. Parent Copy of IEP

MOODY EARLY CHILDHOOD CENTER shall give the parent a copy of the child's IEP at no cost. If the child's parent is unable to speak English, the charter school will:

1. Provide the parent with a written copy or audio recording of the child's IEP translated into Spanish if Spanish is the parent's native language; or
2. Make a good faith effort to provide the parent with a written copy or audio recording of the child's IEP translated into the parent's native language if the parent's native language is a language other than Spanish.

19 TAC § 89.1050. A written copy of the student's IEP translated into Spanish or the parent's native language means that all of the text in the IEP in English is accurately translated into the target language in written form. The IEP translated into the target language must be a comparable rendition of the IEP in English and not a partial translation or summary of the IEP in English.

An audio recording of the student's IEP translated into Spanish or the parent's native language means that all of the content in the child's IEP in English is orally translated into the target language and recorded with an audio device. **MOODY EARLY CHILDHOOD CENTER** may provide the parent with an audio recording of an ARD committee meeting at which the parent was assisted by an interpreter as long as the audio recording provided to the parent contains an oral translation into the target language of all of the content in the child's IEP in English.

If a parent's native language is not a written language, **MOODY EARLY CHILDHOOD CENTER** shall take steps to ensure that the student's IEP is translated orally or by other means to the parent in his or her native language or other mode of communication.

4. *ARD Committee Meetings*

At the beginning of each school year, **MOODY EARLY CHILDHOOD CENTER** shall have in effect, for each child with a disability, an IEP. **MOODY EARLY CHILDHOOD CENTER** shall provide prior written notice in accordance with 34 CFR § 300.503 and 19 TAC § 89.1050.

i. Initial Meeting

The ARD committee must make its decisions regarding the child's initial eligibility determination and, if appropriate, IEP and placement within 30 calendar days from the date of the completion of the written full individual and initial evaluation report unless one of the following situations applies:

1. If the 30th day falls during the summer and school is not in session, the ARD committee has until the first day of classes in the fall to finalize its decisions, unless the initial evaluation indicates that the child will need extended school year services during that summer; or
2. If **MOODY EARLY CHILDHOOD CENTER** received the written consent for the evaluation from the parent at least 35 but fewer than 45 school days before the last instructional day of the school year and the child was not absent from school three or more days between the time that the LEA received written consent and the last instructional day of the school year, the ARD committee must meet not later than the 15th school day of the following school year, unless the initial evaluation indicates that the child will need extended school year services during that summer.

19 TAC § 89.1011. When one of the above situations applies and the initial evaluation indicates that the child will need extended school year services during the summer, the ARD committee must meet as expeditiously as possible.

For purposes of determining the timeline for an initial ARD committee meeting, school day does not include a day that falls after the last instructional day of the spring school term and before the first instructional day of the subsequent fall school term.

ii. Developing the IEP

MOODY EARLY CHILDHOOD CENTER shall ensure that all members of the ARD committee have the opportunity to participate in a collaborative manner in developing the IEP. 19 TAC § 89.1050. In developing each student's IEP, the ARD committee must consider the following (1) the strengths of the child; (2) the concerns of the parents for enhancing the education of their child; (3) the results of the initial or most recent evaluation of the child; and (4) the academic, developmental, and functional needs of the child. 34 CFR § 300.324. The ARD committee must also:

1. In the case of a student whose behavior impedes the student's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior;
2. In the case of an emergent bilingual student, consider the language needs of the child as those needs relate to the child's IEP;
3. In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the ARD committee 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;
4. 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
 5. Consider whether the child needs assistive technology devices and services.

34 CFR § 300.324. The ARD committee may agree to an annual IEP or an IEP of shorter duration. As soon as possible following development of the IEP, **MOODY EARLY CHILDHOOD CENTER** shall ensure that special education and related services are made available to the child in accordance with the child's IEP.

iii. Review and Revision of the IEP

The student's ARD committee will review the IEP periodically, but at least annually, to determine whether the annual goals are being achieved. 34 CFR § 300.324. The ARD committee must revise the IEP as appropriate to address:

1. Any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate;
2. The results of any reevaluation;
3. Information about the child provided to, or by the parent, in the REED;
4. The child's anticipated needs; or
5. Other matters.

To the extent possible, **MOODY EARLY CHILDHOOD CENTER** must encourage the consolidation of reevaluation meetings for the child and other ARD committee meetings for the child.

iv. Recessing and Reconvening a Meeting

A decision of the ARD committee concerning required elements of the IEP must be made by mutual agreement wherever possible. 19 TAC § 89.1050. When mutual agreement about all required elements of the IEP is not achieved, **MOODY EARLY CHILDHOOD CENTER** shall offer the parent who disagrees a single opportunity to recess and reconvene the ARD committee meeting.

The period of time for reconvening the ARD committee meeting must not exceed 10 school days, unless the parties mutually agree otherwise. The ARD committee must schedule the reconvened meeting at a mutually agreed upon time and place.

The opportunity to recess and reconvene is not required when the child's presence on the campus presents a danger of physical harm to the child or others or when the child has committed an

expellable offense or an offense that may lead to a placement in a disciplinary alternative education program.

During the recess, the ARD committee members must (1) consider alternatives; (2) gather additional data; (3) prepare further documentation; and/or (4) obtain additional resource persons who may assist in enabling the ARD committee to reach mutual agreement.

When an ARD committee agrees to recess and reconvene due to a lack of mutual agreement, the parent and charter school may request an independent facilitator from the TEA by completing and submitting the required form within five days of the ARD committee meeting that ended in disagreement. The form is available in English and Spanish at <https://tea.texas.gov/academics/special-student-populations/special-education/programs-and-services/individualized-education-program-facilitation>.

If a recess is implemented and the ARD committee still cannot reach mutual agreement, **MOODY EARLY CHILDHOOD CENTER** shall implement the IEP that it has determined to be appropriate for the child.

The ARD committee may recess an ARD committee meeting for reasons other than the failure to reach mutual agreement about all required elements of an IEP.

v. Mutual Agreement

The IEP must include: (1) the date of the meeting; (2) the name, position, and signature of each ARD committee member participating in the meeting; and (3) an indication of whether the child's parents, the adult student, if applicable, and the administrator agreed or disagreed with the decisions of the ARD committee. 19 TAC § 89.1055.

When mutual agreement is not reached, the ARD committee must include a written statement of the basis for the disagreement in the IEP, and each member, including the parent, who disagrees with the IEP developed by the ARD committee is entitled to include a statement of disagreement in the IEP. TEC 29.005(c); 19 TAC § 89.1050(g).

vi. Parent Request for an ARD Committee Meeting

Upon receipt of a written request for an ARD committee meeting from a parent, **MOODY EARLY CHILDHOOD CENTER** shall schedule and convene a meeting in accordance with the applicable notice requirements or within five school days, provide the parent with written notice explaining why the charter school refuses to convene a meeting. 19 TAC § 89.1050.

vii. Amendment without a Meeting

After the annual ARD meeting, changes to the IEP may be made either by the entire ARD committee or by amending the IEP rather than by redrafting the entire IEP. 34 CFR § 300.324. Eligibility determinations, changes of placement, and manifestation determination reviews will not be conducted through the amendment without a meeting process. 34 CFR §§ 300.116, 300.306, 300.530.

To amend the IEP without an ARD committee meeting the parent and the charter school must agree not to convene an ARD committee meeting for the purpose of making changes to the IEP and **must** develop a written document to amend or modify the child's current IEP. 34 CFR § 300.324.

If changes are made to the student's IEP by agreement without an ARD committee meeting, **MOODY EARLY CHILDHOOD CENTER** ensure that the student's ARD committee is informed of those changes. Upon request, the parent must be provided with a revised copy of the IEP with the amendments incorporated. 34 CFR § 300.324.

5. Determination of Eligibility

Upon completion of the FIE, the ARD committee must determine whether the child has a disability; and by reason of the disability, the child needs special education and related services.

If it is determined, through an appropriate FIE, that the child has one of the disabilities but only needs a related service and not special education, the child is not a child with a disability under the IDEA.

i. Analysis of Determinant Factors

A child must not be determined by the ARD committee to be a child with a disability if the determinant factor for such determination is:

1. Lack of appropriate instruction in reading, including in the essential components of reading instruction as defined in the Elementary and Secondary Education Act which means explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency, including oral reading skills, and reading comprehension strategies;
2. Lack of appropriate instruction in math; or
3. Limited English proficiency/status as an emergent bilingual student.

20 USC § 1021; 34 CFR § 300.306.

ii. Documentation

The local educational agency must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent. 34 CFR § 300.306.

6. Transition Services

Transition services means a coordinated set of activities for the 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 with a disability to facilitate the child's movement from school to post-school activities, including:
 - a. Post-secondary education;

- b. Vocational education;
 - c. Integrated employment, including supported employment;
 - d. Continuing and adult education;
 - e. Adult services;
 - f. Independent living; or
 - g. Community participation;
2. Is based on the individual child's needs, considering the child's strengths, preferences, and interests; and includes:
- a. Instruction;
 - b. Related services;
 - c. Community experiences;
 - d. The development of employment and other post-school adult living objectives; and
 - e. If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

34 CFR § 300.43. Transition services may be special education, if provided as specially-designed instruction, or a related service, if required to assist the child with a disability to benefit from special education.

If the child does not attend the ARD committee meeting where transition services are discussed, **MOODY EARLY CHILDHOOD CENTER** must take other steps to ensure the child's preferences and interests are considered. 34 CFR § 300.321.

i. By the time the student turns 14

Not later than when the child reaches age 14, the ARD committee must consider and, if appropriate, address:

1. Appropriate child involvement in the child's transition to life outside the public-school system;
2. If the child is younger than age 18, appropriate involvement in the child's transition by the child's parent and other persons invited to participate by:
 - a. The child's parent; or
 - b. The school in which the child is enrolled.
3. Appropriate postsecondary education options, including preparation for postsecondary-level coursework;
4. Appropriate functional vocational evaluation;
5. Appropriate employment goals and objectives;
6. If the child has reached age 18, the availability of age-appropriate instructional environments, including community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the adult student's transition goals and objectives;
7. Appropriate independent living goals and objectives;

8. Appropriate circumstances for facilitating a referral of a child or the child's parent to a governmental agency for services or public benefits, including a referral to a governmental agency to place the child on a waiting list for public benefits available to the child; and
9. The use and availability of appropriate:
 - a. Supplementary aids, services, curricula, and other opportunities to assist the child in developing decision-making skills; and
 - b. Supports and services to foster the child's independence and self-determination, including a supported decision-making agreement.

TEC § 29.011; 19 TAC § 89.1055. A child's ARD committee will annually review and, if necessary, update the portion of the child's IEP that addresses these issues.

ii. By the time the student turns 16

Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the ARD committee, and updated annually thereafter, the IEP must include the following:

1. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to:
 - a. Training;
 - b. Education;
 - c. Employment; and
 - d. Where appropriate, independent living skills; and
2. Transition services, including courses of study, needed to assist the child in reaching those postsecondary goals.

34 CFR § 300.320; 19 TAC § 89.1055.

iii. By the time the student turns 17

Not later than one year before the 18th birthday of the child with a disability, **MOODY EARLY CHILDHOOD CENTER** must comply with the notification of transfer of rights provisions found in 34 CFR § 300.520, 19 TAC § 89.1049, and TEC § 29.017.

iv. By the time the student turns 18

For an adult student the ARD committee must consider and, if appropriate, address involvement in the student's transition and future by the adult student's parent and other persons, if the parent or other person:

1. Is invited to participate by the adult student or the charter school in which the adult student is enrolled; or
2. Has the adult student's consent to participate pursuant to a supported decision-making agreement.

TEC § 29.011; 19 TAC § 89.1055. When a child with a disability reaches age 18, **MOODY EARLY CHILDHOOD CENTER** must comply with the notification of transfer of rights provisions found in 34 CFR § 300.520, 19 TAC § 89.1049, and TEC § 29.017.

v. Other Transition Issues

When determining the courses of study, the ARD committee must consider the graduation framework.

MOODY EARLY CHILDHOOD CENTER shall ensure that children with disabilities have access to CTE classes. 19 TAC § 75.1023. When determining placement in a CTE classroom, the ARD committee must consider the child's graduation plan, the content of the IEP, including the consideration of transition services, and classroom supports.

If a participating agency, other than **MOODY EARLY CHILDHOOD CENTER**, fails to provide the transition services described in the IEP, the charter school must reconvene the ARD committee to identify alternative strategies to meet the transition objectives for the child set out in the IEP. 34 CFR § 300.324.

vi. Transition and Employment Guide

MOODY EARLY CHILDHOOD CENTER must post the Texas Transition and Employment Guide on the charter school's website. **MOODY EARLY CHILDHOOD CENTER** must provide written information and, if necessary, assistance to the child or parent regarding how to access the electronic version of the guide at:

1. The first meeting of the child's ARD committee at which transition is discussed; and
2. The first ARD committee meeting at which transition is discussed that occurs after the date on which the guide is updated.

TEC § 29.0112. On request, a printed copy of the guide will be provided to the child or parent.

7. *Present Levels*

The ARD committee must provide a statement of the child's present levels of academic achievement and functional performance (PLAAFP). 34 CFR § 300.320. The statement of present levels must include how the child's disability affects the child's involvement and progress in the general education curriculum or how the disability affects the preschool child's participation in appropriate activities.

8. *Annual Goals*

The ARD committee must include in the child's IEP a statement of measurable annual academic and functional goals designed to: (1) meet the child's needs that result from the child's disability to enable the child to be involved in and to make progress in the general education curriculum; and (2) meet each of the child's other educational needs that result from the child's disability. 34 CFR § 300.320 For the child who takes an alternate state assessment aligned to alternate

achievement standards, the ARD committee must include a description of benchmarks or short-term objectives in the IEP.

The ARD committee must include in the IEP a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided. 34 CFR § 300.320.

9. Special Factors

i. Behavior

In the case of the child whose behavior impedes the child's learning or that of others, the ARD committee must consider the use of positive behavioral interventions and supports and other strategies to address that behavior. 34 CFR § 300.324.

If the ARD committee determines that a behavior improvement plan or a behavioral intervention plan (BIP) is appropriate for the child, the plan must be included as part of the child's IEP and provided to each teacher with responsibility for educating the child. TEC § 29.005; 19 TAC § 89.1055.

When considering time-out, as part of the child's IEP and/or BIP, the ARD committee must comply with provisions regarding restraint and time-out in 19 TAC § 89.1053 and TEC Ch. 37, address any necessary documentation or data collection, and use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use. 19 TAC § 89.1053.

ii. English Learners (ELs)

In the case of the child who is an emergent bilingual student, the ARD committee must consider the language needs of the child as such needs relate to the child's IEP. 34 CFR §§ 300.24, 300.324. The ARD committee in conjunction with the language proficiency assessment committee (LPAC) must implement assessment procedures that differentiate between language proficiency and disabling conditions. 19 TAC §§ 89.1226, 89.1230.

If the child is identified as an EL, the ARD committee must include a professional member of the LPAC to serve on the ARD committee. 19 TAC §§ 89.1050, 89.1203.

The decision for entry into a bilingual education or English as a second language program must be determined by the ARD committee in conjunction with the LPAC and must comply with the state and districtwide assessments provisions found herein. 19 TAC § 89.1226.

The ARD committee in conjunction with the LPAC must identify a child as an EL if the child's ability in English is so limited or the child's disabilities are so severe that the English language proficiency assessment cannot be administered. 19 TAC § 89.1226.

For ELs who are also eligible for special education services, the standardized process for EL program exit is followed. 19 TAC § 89.1226. However, annual meetings to review progress and make recommendations for program exit must be made in all instances by the ARD committee in conjunction with the LPAC.

For an EL with significant cognitive disabilities, the ARD committee in conjunction with the LPAC may determine that the state's English language proficiency assessment for exit is not appropriate because of the nature of the child's disabling condition. 19 TAC § 89.1226. In that case, the ARD committee in conjunction with the LPAC may recommend that the child take the state's alternate English language proficiency assessment and must determine an appropriate performance standard requirement for exit by language domain.

iii. Blind or Visually Impaired

In the case of the child who is blind or visually impaired, 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, the ARD committee must either: (1) provide for reading and writing instruction in braille and the use of braille; or (2) determine that instruction in braille or the use of braille is not appropriate. 34 CFR § 300.324.

Before placing the child with a visual impairment in a classroom setting, or within a reasonable period of time after placement, **MOODY EARLY CHILDHOOD CENTER** must provide evaluation of the impairment; and instruction in an expanded core curriculum, which is required for the child to succeed in classroom settings and derive lasting, practical benefits from the education by the charter school, including instruction in:

1. Compensatory skills, such as braille and concept development, and other skills needed to access the rest of the curriculum;
2. Orientation and mobility;
3. Social interaction skills;
4. Career planning;
5. Assistive technology, including optical devices;
6. Independent living skills;
7. Recreation and leisure enjoyment;
8. Self-determination; and
9. Sensory efficiency.

TEC § 30.002. The ARD committee must develop an IEP that provides a detailed description of the arrangements made to provide the child with an evaluation of the impairment and instruction in the expanded core curriculum required for children with visual impairments. The IEP must also set forth the plans and arrangements made for contacts with and continuing services to the child beyond regular school hours to ensure the child receives the instruction required for children with visual impairments. The IEP shall reflect that the child has been provided a detailed explanation of the various service resources available in the community and throughout the state.

In the development of the IEP for the child with a visual impairment, proficiency in reading and writing is a significant indicator of the child's satisfactory educational progress.

The IEP for a child with a visual impairment must include instruction in braille and the use of braille unless the child's ARD committee determines and documents that braille is not an appropriate literacy medium for the child. TEC § 30.002. The ARD committee's determination must be based on an evaluation of the child's appropriate literacy media and literacy skills and the child's current and future instructional needs.

Braille instruction may be used in combination with other special education services appropriate to the child's educational needs, and must be provided by a teacher certified to teach children with visual impairments. TEC § 30.002.

Each person assisting in the development of the child's IEP must receive information describing the benefits of braille instruction. **MOODY EARLY CHILDHOOD CENTER** must provide each parent with the state-adopted form that contains written information about programs offered by state institutions. TEC § 30.004.

For a child with a visual impairment who is placed in the Texas School for the Blind and Visually Impaired, the LEA in which the child resides is responsible for assuring that a free appropriate public education is provided to the child and that all legally required meetings for the purpose of developing and reviewing the child's IEP are conducted. TEC § 30.021.

iv. Communication

The ARD committee must consider the communication needs of the child. 34 CFR § 300.324.

v. Deaf or Hard of Hearing

In the case of the child who is deaf or hard of hearing, the ARD committee must consider:

1. The child's language and communication needs;
2. The child's opportunities for direct communications with peers and professional personnel in the child's language and communication mode;
3. The child's academic level; and
4. The child's full range of needs, including opportunities for direct instruction in the child's language and communication mode.

34 CFR § 300.324. **MOODY EARLY CHILDHOOD CENTER** shall ensure that the child who is deaf or hard of hearing has an education in which the child's unique communication mode is respected, used, and developed to an appropriate level of proficiency. TEC § 29.303.

MOODY EARLY CHILDHOOD CENTER shall provide each parent with the state-adopted form that contains written information about programs offered by state institutions. TEC § 30.004.

vi. Assistive Technology

The ARD committee must consider whether the child needs assistive technology devices and services. 34 CFR § 300.324. The term assistive technology device (ATD) is any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of the child with a disability. 34 CFR § 300.5. The term ATD does not include a medical device that is surgically implanted, or the replacement of such device.

The term assistive technology service means any service that directly assists the child with a disability in the selection, acquisition, or use of an ATD, and includes:

1. The evaluation of the needs of the child, including a functional evaluation of the child in the child's customary environment;
2. Purchasing, leasing, or otherwise providing for the acquisition of ATDs by the child;
3. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing ATDs;
4. Coordinating and using other therapies, interventions, or services with ATDs, such as those associated with existing education and rehabilitation plans and programs;
5. Training or technical assistance for the child or, where appropriate, the family of the child; and
6. Training or technical assistance for professionals, including individuals providing education and rehabilitation services, employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of the child.

34 CFR § 300.6.

vii. Autism

In the case of the child with autism, the strategies below must be considered by the ARD committee, based on peer-reviewed, research-based educational programming practices to the extent practicable, and when needed, addressed in the IEP:

1. **Extended educational programming** (for example: extended day and/or extended school year services that consider the duration of programs/settings based on assessment of behavior, social skills, communication, academics, and self-help skills);
2. **Daily schedules** reflecting minimal unstructured time and active engagement in learning activities (for example: lunch, snack, and recess periods that provide flexibility within routines; adapt to individual skill levels; and assist with schedule changes, such as changes involving substitute teachers and pep rallies);
3. **In-home and community-based training** or viable alternatives that assist the child with acquisition of social/behavioral skills (for example: strategies that facilitate maintenance and generalization of such skills from home to school, school to home, home to community, and school to community);

4. **Positive behavior support strategies** based on relevant information (for example: antecedent manipulation, replacement behaviors, reinforcement strategies, and data-based decisions; and a BIP developed from a functional behavioral assessment that uses current data related to target behaviors and addresses behavioral programming across home, school, and community-based settings);
5. Beginning at any age, consistent with requirements for transition services, **futures planning** for integrated living, work, community, and educational environments that considers skills necessary to function in current and post-secondary environments;
6. **Parent/family training and support**, provided by qualified personnel with experience in autism spectrum disorders that, for example: provides a family with skills necessary for the child to succeed in the home/community setting; includes information regarding resources; and facilitates parental carryover of in-home training;
7. **Suitable staff-to-child ratio** appropriate to identified activities and as needed to achieve social/behavioral progress based on the child's developmental and learning level (acquisition, fluency, maintenance, generalization) that encourages work towards individual independence as determined by, for example: adaptive behavior evaluation results; behavioral accommodation needs across settings; and transitions within the school day;
8. **Communication interventions**, including language forms and functions that enhance effective communication across settings (for example: augmentative, incidental, and naturalistic teaching);
9. **Social skills supports and strategies** based on social skills assessment/curriculum and provided across settings (for example: trained peer facilitators [e.g., circle of friends], video modeling, social stories, and role playing);
10. **Professional educator/staff support** (for example: training provided to personnel who work with the child to assure the correct implementation of techniques and strategies described in the IEP); and
11. **Teaching strategies** based on peer-reviewed, research-based practices for children with autism spectrum disorder (for example: those associated with discrete-trial training; visual supports, applied behavior analysis, structured learning, augmentative communication, or social skills training).

34 CFR § 300.320; 19 TAC § 89.1055. If the ARD committee determines that services are not needed in one or more of the areas specified above, the ARD committee must include a statement in the IEP to that effect and the basis upon which the determination was made. 19 TAC § 89.1055.

10. Supplementary Aids and Services, Special Education and Related Services

Supplementary aids and services, special education, and related services must be based on peer-reviewed research to the extent practicable. 34 CFR § 300.320.

The ARD committee must determine needed supplementary aids and services to be provided to the child, or on behalf of the child. 34 CFR § 300.320; 19 TAC § 89.1050. The term supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable the child with a disability to be educated with nondisabled children to the maximum extent appropriate. 34 CFR § 300.42.

The ARD committee must determine needed special education services. 34 CFR § 300.320; 19 TAC § 89.1050. The term special education means specially-designed instruction, at no cost to parents, to meet the unique needs of the child with a disability. 34 CFR § 300.39.

The ARD committee must determine needed related services. 34 CFR § 300.320; 19 TAC § 89.1050. The term related services means transportation, and such developmental, corrective, and other supportive services as may be required to assist the child with a disability to benefit from special education. 34 CFR § 300.34.

A child is eligible to receive audiology services provided under the school health and related services program of the Health and Human Services Commission, as set forth in TEC § 38.033.

If the student has been placed in a residential setting by the ARD committee, the home school district will be responsible for transportation at the beginning and end of the term and for regularly scheduled holidays when the children are expected to leave the residential campus. 19 TAC § 89.1090. When the ARD committee determines it is necessary for the safety of the child to be accompanied by an adult designated by the ARD committee, round-trip transportation for that adult must also be provided. 19 TAC § 89.1090.

i. Program Modifications and Supports for School Personnel

The ARD committee must determine needed program modifications or supports for school personnel that will be provided to the child to enable the child to:

1. Advance appropriately toward attaining the annual goals;
2. Be involved in and make progress in the general education curriculum, and be afforded an equal opportunity to participate in extracurricular and other nonacademic activities including, to the maximum extent appropriate, in nonacademic settings and services; and
3. Be educated and participate with other children with disabilities and nondisabled children.

34 CFR §§ 300.107, 300.117, 300.320; 19 TAC § 89.1050. A determination that the child is unable to complete the requirement to receive instruction in cardiopulmonary resuscitation is made by the ARD committee. TEC § 28.0023; 19 TAC § 74.38.

ii. Training to Implement the IEP

MOODY EARLY CHILDHOOD CENTER is required to provide training to an educator who works primarily outside the area of special education only if the educator does not possess the

knowledge and skills necessary to implement the IEP developed for the child receiving instruction from the educator. TEC § 21.451. **MOODY EARLY CHILDHOOD CENTER** will determine the time and place at which the training is delivered.

MOODY EARLY CHILDHOOD CENTER must include training that is evidence-based, relates to instruction of children with disabilities, including students with disabilities who also have other intellectual or mental health conditions, and is designed for educators who work primarily outside the area of special education. TEC § 21.451.

In developing or maintaining the training, **MOODY EARLY CHILDHOOD CENTER** must consult with persons with expertise in research-based practices for children with disabilities. TEC § 21.451.

iii. Intensive Program of Instruction

For a child who did not perform satisfactorily on a state assessment or who is likely not to receive a high school diploma before the fifth school year following the child's enrollment in grade 9, the ARD committee must design the intensive program of instruction to enable the child to attain a standard of annual growth on the basis of the child's IEP and if applicable, to carry out the purposes of the Student Success Initiative. TEC §§ 28.0213, 39.023.

iv. Accelerated Reading Instruction

For the child in kindergarten or grades 1 or 2 who did not perform satisfactorily on a reading instrument selected from the list adopted by the commissioner of education or by the district-level committee, the ARD committee must determine the manner in which the child will participate in an accelerated reading instruction program. TEC § 28.006; 19 TAC § 89.1050.

v. Initiation, Frequency, and Duration of Services

The ARD committee must determine and include in the child's IEP (1) the projected date for the beginning of the services and modifications; (2) the anticipated frequency of those services and modifications; and (3) the anticipated duration of those services and modifications. 34 CFR § 300.320.

The ARD committee must determine the appropriate length of school day and specify the length of school day in the IEP. 19 TAC § 89.1075. Children with disabilities must have available an instructional day commensurate with that of children without disabilities. 19 TAC § 89.1075.

vi. Location

The ARD committee must determine and include in the IEP the anticipated location of the services and modifications. 34 CFR § 300.320; 19 TAC § 89.1050.

11. Placement

i. Least Restrictive Environment (LRE)

MOODY EARLY CHILDHOOD CENTER shall ensure that to the maximum extent appropriate, children with disabilities are educated with children who are nondisabled. 34 CFR § 300.114. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment will occur 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 § 300.114.

In providing or arranging for the provision of nonacademic and extracurricular services and activities, **MOODY EARLY CHILDHOOD CENTER** shall ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of the child. 34 CFR § 300.117.

ii. Continuum of Placements

MOODY EARLY CHILDHOOD CENTER shall ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. The continuum must: (1) include instruction in regular classes, special classes, 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 placement. 34 CFR § 300.115.

iii. Placement Decisions

In determining the educational placement of a child with a disability, including a preschool child with a disability if offered at the open enrollment charter school campus, **MOODY EARLY CHILDHOOD CENTER** shall ensure that the placement decision is made by the ARD committee, including the parents and in conformity with LRE provisions. 34 CFR § 300.116; 19 TAC § 89.1050.

MOODY EARLY CHILDHOOD CENTER shall also ensure that the student's placement is determined at least annually, is based on the child's IEP, and is as close as possible to the child's home or the open enrollment charter school. 34 CFR § 300.116. Unless the IEP of a child with a disability requires some other arrangement, the child shall be educated in the school that he or she would attend if nondisabled.

The IEP must include 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 other nonacademic activities. 34 CFR § 300.320. The ARD committee must determine the appropriate instructional setting for the child and specify the instructional setting in the IEP. 19 TAC § 89.1075.

iv. Preschool-Aged Children

MOODY EARLY CHILDHOOD CENTER must comply with the legal requirements for children ages 0–5 found in 20 USC 1436, 34 CFR Parts 300 and 303, Texas Education Code, Texas Government Code, and 19 TAC Chapter 89.

v. Career and Technical Education (CTE) Programs

If a child is unable to receive a FAPE in a regular CTE program, the child may be served in separate programs designed to address the child's occupational/training needs, such as CTE for children with disabilities programs. 19 TAC § 75.1023. When determining placement in a CTE classroom, the ARD committee will consider the child's graduation plan, the content of the IEP, including the consideration of transition services, and classroom supports. Enrollment numbers in a CTE classroom must not create a harmful effect on learning for a child with or without disabilities.

vi. Regional Day School Program for the Deaf

LEAs must have access to regional day school programs for the deaf and the child must be eligible for consideration for the Regional Day School Program for the Deaf, subject to the ARD committee recommendations, if the child has a hearing impairment which (1) severely impairs processing linguistic information through hearing, even with recommended amplification; and (2) adversely affects educational performance. 19 TAC § 89.1080.

12. Placement in a Residential Facility

MOODY EARLY CHILDHOOD CENTER may contract with a residential facility to provide some or all of the special education services listed in the contracted child's IEP. 19 TAC § 89.61.

When the ARD committee determines that a residential placement is necessary in order for the child to receive a free appropriate public education, the ARD committee must:

1. List the services in the child's IEP which the charter school is unable to provide and which the facility will provide;
2. Establish, in writing, criteria and estimated timelines for the child's return to the charter school;
3. Document in the child's IEP the appropriateness of the facility for the individual child; and
4. Verify during the initial residential placement ARD committee meeting and each annual ARD committee meeting that the facility meets minimum standards for health and safety, the residential placement is needed and is documented in the IEP, and the educational program provided at the residential facility is appropriate and the placement is the least restrictive environment for the child.

19 TAC § 89.61.

Within 30 calendar days of an ARD committee's decision to place a child in a residential facility, **MOODY EARLY CHILDHOOD CENTER** must electronically submit to TEA notice of and information regarding placement in accordance with submission procedures. 19 TAC § 89.1092(b).

i. Texas School for the Blind And Visually Impaired (TSBVI) and Texas School for the Deaf (TSD)

When placing the child at the TSBVI or the TSD, the ARD committee must include in the child's IEP those services which the TSBVI or the TSD can appropriately provide and the criteria and estimated timelines for returning the child to the charter school. 19 TAC § 89.1085.

When placing the child at the TSBVI or the TSD, **MOODY EARLY CHILDHOOD CENTER** may make an on-site visit to verify that the TSBVI or the TSD can and will offer the services listed in the child's IEP and to ensure that the school offers an appropriate educational program for the child.

MOODY EARLY CHILDHOOD CENTER may contract for an in-state residential placement of the child only with public or private residential facilities which maintain current and valid licensure for the particular disabling condition and age of the child. 19 TAC § 89.61.

MOODY EARLY CHILDHOOD CENTER may contract for an out-of-state residential placement in accordance with this legal framework. 19 TAC § 89.61. If **MOODY EARLY CHILDHOOD CENTER** contracts for an out-of-state residential placement, it must do so in accordance with the rules for in-state residential placement, except that the facility must be approved by the appropriate agency in the state in which the facility is located, rather than by the commissioner of education in Texas.

When making a residential placement, **MOODY EARLY CHILDHOOD CENTER** must comply with all applicable laws governing the use of funds for contract services, including residential placements. 19 TAC § 89.61. **MOODY EARLY CHILDHOOD CENTER** must also make an initial and an annual on-site visit to verify that the residential facility can, and will, provide the services listed in the child's IEP which the facility has agreed to provide to the child.

ii. Residential Application Process

If the facility provides any educational services listed in the child's IEP, the facility's education program must be approved by the commissioner of education. 19 TAC § 89.61. **MOODY EARLY CHILDHOOD CENTER** must notify the TEA of its intent to contract for the residential placement through the residential application process. **MOODY EARLY CHILDHOOD CENTER** must comply with all applicable law governing the use of funds for contract services, including residential placements.

Requests for approval of state and federal funding for residentially-placed children must be negotiated on an individual basis through a residential application submitted by the charter school to the TEA. 19 TAC § 89.61. A residential application may be submitted for educational purposes only.

The residential application will not be approved if the application indicates that the:

1. Placement is due primarily to the child's medical problems;
2. Placement is due primarily to problems in the child's home;

3. The LEA does not have a plan, including timelines and criteria, for the child's return to the local school program;
4. The LEA did not attempt to implement lesser restrictive placements prior to residential placement, except in emergency situations as documented by the child's ARD committee;
5. Placement is not cost effective when compared with other alternative placements; and/or
6. Residential facility provides unfundable/unapprovable services.

19 TAC § 89.61.

iii. Residential Approval Process

Residential facilities which provide educational services must have their educational programs approved for contracting purposes by the commissioner of education. 19 TAC § 89.61. If the education program of a residential facility which is not approved by the commissioner of education is being considered for a residential placement by the charter school, the charter school should notify the TEA in writing of its intent to place the child at the facility.

The TEA will begin approval procedures and conduct an on-site visit to the facility within 30 calendar days after the TEA has been notified by the charter school. 19 TAC § 89.61. Approval of the education program of a residential facility may be for one, two, or three years.

The commissioner of education will renew approvals and issue new approvals only for those facilities which have contract children already placed or which have a pending request for residential placement from the charter school. 19 TAC § 89.61.

The approval does not apply to residential facilities which only provide related services or residential facilities in which the accredited LEA where the facility is located provides the educational program. 19 TAC § 89.61.

iv. Reporting and Responsibility

When the child who is residentially placed by the charter school changes residence to another Texas LEA, and the child continues in the contracted placement, the LEA which negotiated the contract must be responsible for the residential contract for the remainder of the school year. 19 TAC § 89.61.

An approved facility, institution, or agency with whom the charter school contracts must periodically report to the charter school on the services the child has received or will receive in accordance with the contract as well as diagnostic or other evaluative information that the charter school requires in order to fulfill its obligations under the IDEA. TEC § 29.008.

13. State and Districtwide Assessments

i. Participation in State and Districtwide Assessments

All children with disabilities are included in all general state and district wide assessment programs, including assessments described under the Elementary and Secondary Education Act,

with appropriate accommodations and alternate assessments where necessary and as indicated in their respective IEPs. 34 CFR § 300.160.

ii. Accommodation Guidelines

The TEA, or in the case of a districtwide assessment, the charter school, will develop guidelines for the provision of appropriate accommodations. 34 CFR § 300.160. The TEA's, or charter school's, guidelines will identify only those accommodations for each assessment that do not invalidate the score and instruct the ARD committee to select, for each assessment, only those accommodations that do not invalidate the score.

iii. Alternate Assessments

If the TEA has adopted alternate academic achievement standards for children with the most significant cognitive disabilities as permitted by the Every Student Succeeds Act (ESSA), the TEA or, in the case of a districtwide assessment, an LEA, will develop and implement alternate assessments and guidelines for the participation of those children with disabilities who cannot participate in general assessments, even with accommodations, as indicated in their respective IEPs. 34 CFR § 300.160; TEC § 39.023.

Alternate assessments and guidelines will: (1) be aligned with the challenging state academic content standards and alternate academic achievement standards under the ESSA; and (2) measure the achievement of children with disabilities who are students with the most significant cognitive disabilities against those standards. 34 CFR § 300.160.

The TEA, or in the case of a districtwide assessment, the charter school, will:

1. Provide the ARD committee with a clear explanation of the differences between assessments based on grade-level academic achievement standards and those based on alternate academic achievement standards, including any effects of the TEA or charter school policies on the child's education resulting from taking an alternate assessment based on alternate academic achievement standards, such as how participation in such assessments may delay or otherwise affect the child from completing the requirements for a regular high school diploma; and
2. Not preclude the child who takes an alternate assessment aligned with alternate academic achievement standards from attempting to complete the requirements for a regular high school diploma.

34 CFR § 300.160. The TEA, or in the case of a districtwide assessment, the charter school, will ensure that parents of children selected to be assessed with an alternate state or district wide assessment are informed: (1) that their child's achievement will be measured based on alternate academic achievement standards; and (2) of how participation in such assessments may delay or otherwise affect the child from completing the requirements for a regular high school diploma. 34 CFR §§ 200.2, 300.160

iv. Assessment Requirements for Graduation

For the child in grades 9-12, the ARD committee will determine whether the child is required to achieve satisfactory performance on the end-of-course assessment instruments to receive a high school diploma. TEC § 39.025; 19 TAC §§ 74.1025, 101.3023.

v. IEP Documentation

The ARD committee will include a statement in the child's IEP of the individualized appropriate and allowable accommodations that are necessary to measure the academic achievement and functional performance of the child on any state or district wide assessment. 34 CFR § 300.320; TEC § 39.023; 19 TAC §§ 89.1055, 191.3013.

If the ARD committee determines that the child will take an alternate assessment on a particular state or district wide assessment, the IEP will include a statement of why: (1) the child cannot participate in the general assessment; and (2) the particular alternate assessment selected is appropriate for the child. 34 CFR § 300.320; 19 TAC § 89.1055.

For the English Learner (EL), the ARD committee in conjunction with the LPAC will: (1) select the appropriate assessments; (2) document the decisions and justifications in the child's IEP; and (3) determine and document any allowable testing accommodations. 19 TAC § 101.1005.

vi. Annual Assessment of English Language Proficiency

MOODY EARLY CHILDHOOD CENTER will annually administer state-identified English language proficiency assessments to the child who is an emergent bilingual student and who is in kindergarten through grade 12 in the areas of listening, speaking, reading, and writing. 19 TAC §§ 89.1203, 101.1003.

In rare cases, the ARD committee in conjunction with the LPAC may determine that it is not appropriate for an EL who receives special education services to participate in an English language proficiency assessment for reasons associated with the child's particular disability. 19 TAC § 101.1003.

If the ARD committee and the LPAC determine that it is not appropriate for the child to participate in an English language proficiency assessment for reasons associated with the child's particular disability, the ARD committee will document the decisions and justifications in the child's IEP. 19 TAC § 101.1003. For the EL who receives special education services, the ARD committee in conjunction with the LPAC will determine the need for allowable testing accommodations.

14. Graduation

i. Applicability of Title Relating to High School Graduation

Moody Early Childhood Center is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code ("TEC"), or a rule adopted under Title 2 (Public Education) of the TEC, relating to high school graduation under TEC Section 28.025. Education Code 12.104(b)(2)(E).

ii. Modified Curriculum and Modified Content

For purposes of **this policy** and its related requirements, “modified curriculum” and “modified content” reference any reduction of the amount or complexity of required Texas Essential Knowledge and skills. Substitutions that are not specifically authorized in statute or regulations must not be considered modified curriculum or modified content. 19 TAC 89.107(k).

iii. ARD Committee and Transition Planning

The Admission, Review and Dismissal (“ARD”) committee must begin transition planning in accordance with applicable state and federal law not later than when the student turns age 14. The ARD committee must also consider the student’s graduation plan and what state assessments are required for graduation. 34 CFR 300.43(a), (b), 300.321(b)(2); Education Code 29.011, 29.0111; 19 TAC 89.1055(j).

iv. Special Education Eligibility Upon Graduation

Except as specifically provided by law, graduation with a regular high school diploma terminates a student’s eligibility for special education and related services. Termination of eligibility based on graduation requires Moody Early Childhood Center to complete a summary of performance in accordance with 34 CFR 300.305(e)(3), and prior written notice must also be provided. 34 CFR 300.102; 19 TAC 89.1035(a), 89.1070(a)

A student who meets the age range for eligibility under state and federal law may return to school provided the student was awarded a diploma that satisfied the following conditions:

1. The student was required to successfully complete the individualized education program (“IEP”); and
2. The student was required to:
 - a. Obtain full-time employment, based on the child’s abilities and local employment opportunities, and master sufficient self-help skills to enable to the student to maintain employment without direct or ongoing educational support of Moody Early Childhood Center;
 - b. demonstrate mastery of specific employability skills and self-help skills that do not require ongoing educational support from Moody Early Childhood Center; or
 - c. have access to services that are not within the legal responsibility of Moody Early Childhood Center or employment or educational options for which the student has been prepared for by the academic program.

19 TAC 89.1070(b)(3)(A)-(C), (f)(4)(A)-(C), (j).

Upon request of the student or parent to resume services, the ARD committee must determine the needed educational services. 19 TAC 89.1070(j).

v. Graduation Requirements Under the Foundation High School Program

A student with a disability who receives special education services and who enters or entered ninth grade during or after the 2014-2015 school year may graduate and receive a regular high school diploma if the student satisfies the following criteria:

1. Demonstrates mastery of the required states standards or Moody Early Childhood Center's standards if they are greater;
2. Satisfactorily completes the credit requirements for graduation under the Foundation High School Program; and
3. Achieves satisfactory performance on the required end-of-course assessment instruments.

Education Code 28.025(c)(1), 39.025; 19 TAC 74.12, 74.125(n), 89.1070(b)(1), 101.3023(a).

A student who receives special education services entering ninth grade in 2014-2015 or after may also graduate and earn a regular high school diploma if:

1. The student demonstrates mastery of the required states standards or Moody Early Childhood Center's standards if they are greater;
2. The student satisfactorily completes the credit requirements for graduation under the Foundation High School Program; but
3. The student's ARD committee has determined that satisfactory performance on the required end-of-course instruments is not necessary for graduation.

19 TAC 89.1070(b)(2).

A student who receives special education services entering ninth grade in 2014-2015 or after may also graduate and earn a regular high school diploma if:

1. The student demonstrates mastery of the required states standards or Moody Early Childhood Center's standards if they are greater;
2. The student satisfactorily completes the credit requirements for graduation under the Foundation High School Program, one or more of which contain modified curriculum that is aligned to the standards applicable to general education;
3. The student achieves satisfactory performance on the required end-of-course assessment instruments, unless the student's ARD committee has determined that satisfactory performance on the required end-of-course instruments is not necessary for graduation; and
4. The student successfully completes the IEP and meets one of the following conditions:
 - a. consistent with the IEP, the student obtains full-time employment and masters sufficient self-help skills to enable the student to maintain employment without direct or ongoing educational support of Moody Early Childhood Center;
 - b. consistent with the IEP, the student has demonstrated mastery of specific employability skills and self-help skills that do not require ongoing educational support from Moody Early Childhood Center;

- c. the student has access to services that are not within the legal responsibility of Moody Early Childhood Center or employment or educational options for which the student has been prepared for by the academic program; or
- d. the student no longer meets age eligibility requirements.

Education Code 28.025; 19 TAC 89.1035, 89.1070(b)(3).

vi. Endorsements Under The Foundation High School Program

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

1. Satisfactorily completes, with or without modification of the curriculum:
 - a. the curriculum requirements for graduation under the Foundation High School Program;
 - b. The additional credit requirements in mathematics, science, and elective courses; and
2. Satisfactorily completes the courses required for the endorsement either:
 - a. without modified curriculum for those courses; or
 - b. with modification of the curriculum for those courses, provided that the curriculum as modified is sufficiently rigorous as determined by the student's ARD committee.

Education Code 28.025(c-7); 19 TAC 89.1070(c)(2).

The ARD committee is responsible for determining whether a student is required to achieve satisfactory performance on an end-of-course assessment to earn an endorsement on the student's transcript. Education Code 28.025(c-8); 19 TAC 89.1070(c)(3).

A student who is in eleventh or twelfth grade and who has taken each of the required state assessments but failed to achieve satisfactorily on no more than two of the assessments, is eligible for an endorsement if the student meets the other endorsement requirements. 19 TAC 89.1070(d).

vii. Transitioning To The Foundation High School Program

A student receiving special education services who entered ninth grade prior to the 2014-2015 school year may receive a diploma under the Foundation High School Program if the student's ARD committee determines the student should take courses under the Foundation High School Program and the student completes the requirements of that Program. Education Code 28.025(c)(1); 19 TAC 74.1021(a)(1), 89.1070(e).

A student transitioning to the Foundation High School Program may earn an endorsement if the student meets the requirements to do so. 19 TAC 89.1070(c)-(e).

A student transitioning to the Foundation High School Program who is classified as in grade 11 or 12 who took each of the required assessments, but failed to achieve satisfactorily on no more

than two of the assessments may graduate if the student met all other applicable graduation requirements. 19 TAC 89.107(e), 101.3022(f)(1).

viii. Substitutions Under The Foundation High School Program

a) Language- Other-Than-English (“LOTE”)

A student who, due to disability, is unable to complete two credits in the same language in a LOTE, as provided in Section 28.025(b-1)(5), may substitute for those credits:

1. Two credits in ELA, mathematics, science, or social studies; or
2. Two credits in career and technology education (“CTE”), technology applications, or other academic electives.

A credit allowed to be substituted under the above provisions may not also be used by the student to satisfy a graduation credit requirement other than credit for completion of a LOTE. The determination regarding a student's ability to participate in LOTE courses will be made by the student’s ARD committee. Education Code 28.025(b-14)(1); 19 TAC 74.12(b)(5)(D)(i).

b) Physical Education

In accordance with State Board of Education (“SBOE”) rules, a student who is unable to participate in physical activity due to disability or illness is allowed to substitute for the physical education credit required under TEC 28.025(b-1)(8):

1. One credit in ELA, mathematics, science, or social studies;
2. One credit in a course that is offered for a credit as provided by TEC 28.002(g-1); or
3. One academic elective credit.

A credit allowed to be substituted for PE credit may not also be used by the student to satisfy any other graduation requirement.

The determination regarding a student’s ability to participate in physical activity must be made by:

1. The student’s ARD committee, if the student receives special education services under the IDEA and Texas Education Code Chapter 29;
2. The student’s 504 committee, if the student does not receive special education services under the IDEA or Texas Education Code Chapter 29, Subchapter A but is covered by Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794; or
3. If each of the committees described above is inapplicable, a committee established by the school of persons with appropriate knowledge regarding the student.

Education Code 28.025(b-11),(b-14); 19 TAC 74.12(b)(6)(G)(i).

ix. Distinguished Achievement, Recommended, and Minimum High School Program

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

1. Demonstrates mastery of the required states standards or Moody Early Childhood Center's standards if they are greater;
2. Satisfactorily completes the credit requirements for graduation under the Foundation High School Program; and
3. Achieves satisfactory performance on the required state assessments.

Education Code 28.025(c)(1), 39.025; 19 TAC 74.1021, 89.1070(f), 101.3023.

A student who is in eleventh or twelfth grade and who has taken each of the required assessments, but failed to achieve satisfactorily on no more than two assessments, may graduate under the recommended or distinguished program if the student meets all other applicable graduation requirements. 19 TAC 89.1070(f)(2), 101.3022(f)(1).

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

1. Demonstrates mastery of the required states standards or Moody Early Childhood Center's standards if they are greater;
2. Satisfactorily completes the credit requirements for graduation under the minimum high school program; and
3. Participates in or satisfactorily performs on the required state assessments as determined by the student's ARD committee.

19 TAC 89.1070(f)(3).

A student receiving special education services who entered ninth grade before the 2014-2015 school year, may also graduate and be awarded a regular high school diploma if the student:

1. Demonstrates mastery of the state standards through courses, or Moody Early Childhood Center's standards if they are greater, one or more of which contained modified content and is aligned with the requirements under the minimum high school program;
2. Completes credit requirements for graduation under the minimum high school program; and
3. Participates in or satisfactorily performs on the required state assessment as determined by the ARD committee.

Education Code 28.025(c), 39.025; 19 TAC 74.1021, 74.1025(n), 89.1070(f)(3), 101.3023.

A student receiving special education services who entered ninth grade before the 2014-2015 school year, may also graduate and be awarded a regular high school diploma if the student:

1. Demonstrates mastery of the state standards through courses, or Moody Early Childhood Center's standards if they are greater, one or more of which contained modified content and is aligned with the requirements under the minimum high school program;
2. Completes credit requirements for graduation under the minimum high school program;
3. Participates in or satisfactorily performs on the required state assessment as determined by the ARD committee; and
4. Successfully completes the IEP and meets one of the following conditions:
 - (a) consistent with the IEP, the student has obtained full-time employment, based on the student's abilities and local employment opportunities, and masters sufficient self-help skills to enable the student to maintain employment without direct or ongoing educational support of Moody Early Childhood Center;
 - (b) consistent with the IEP, the student has demonstrated mastery of specific employability skills and self-help skills that do not require the ongoing educational support of Moody Early Childhood Center;
 - (c) the student has access to services that are not within the legal responsibility of public education or educational options for which the student has been prepared for by the academic program; or
 - (d) the student no longer meets age eligibility requirements.

Education Code 28.025(c)(2), 39.025; 19 TAC 74.1025(n), 89.1035, 89.1070(f)(4), 101.3023.

x. High School Diploma and Certificate of Coursework Completion

Moody Early Childhood Center may issue a certificate of coursework completion to a student who successfully completes the curriculum requirements identified by the SBOE under Education Code Section 28.025(a) but who fails to comply with Section 39.025 (Secondary-Level Performance Required) relating to exit-level assessment requirements. Moody Early Childhood Center does allow a student who receives a certificate to participate in a graduation ceremony with students receiving high school diplomas. Education Code 28.025(d)

xi. Certificates of Attendance and Participation in Graduation Ceremonies

Moody Early Childhood Center shall issue a Certificate of Attendance to a student who receives special education services under Subchapter A, Chapter 29 of the Texas Education Code and who has completed four years of high school but has not completed the student's IEP. Moody Early Childhood Center shall allow a student who receives a certificate of attendance to participate in a graduation ceremony with students receiving high school diplomas. A student may participate in only one graduation ceremony. Receiving a Certificate of Attendance does not preclude a student from receiving a diploma if the student completes the IEP. Education Code 28.025(f).

xii. Children Eligible to Return to School After Graduating

A child who meets the age ranges for eligibility (34 CFR § 300.101; TEC § 29.003; 19 TAC § 89.1035) may return to school as long as the child was awarded a diploma that met the following

conditions: (1) The child was required to successfully complete the child's IEP; and (2) the child was required to:

- Obtain full-time employment, based on the child's abilities and local employment opportunities, in addition to mastering sufficient self-help skills to enable the child to maintain the employment without direct and ongoing educational support of the charter school;
- Demonstrate mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the charter school; or
- Have access to services that were not within the legal responsibility of public education or employment or educational options for which the child has been prepared by the academic program.

19 TAC §§ 89.1035, 89.1070. The ARD committee must determine the needed educational services upon the request of the child or parent to resume services. 19 TAC § 89.1070.

xiii. Financial Aid Application Requirement

Beginning with students enrolled in grade 12 during the 2021-22 school year, before graduating from high school, each student must complete and submit a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TAFSA). TEC § 28.0256. The student is not required to submit the FAFSA or the TAFSA if:

1. The student's parent or other person standing in parental relation submits a signed form indicating that the parent or other person authorizes the student to decline to complete and submit the financial aid application;
2. The student signs and submits the form on the student's own behalf if the student is 18 years of age or older or the student's disabilities of minority have been removed for general purposes; or
3. A school counselor authorizes the student to decline to complete and submit the financial aid application for good cause, as determined by the school counselor.

TEC § 28.0256. **MOODY EARLY CHILDHOOD CENTER** must adopt a form to be used for purposes of documenting the waiver to submit the FAFSA or TASFA, and the form must be: (1) approved by the TEA; and (2) made available in English, Spanish, and any other language spoken by a majority of the children enrolled in a bilingual education or special language program in the district or school. TEC § 28.0256.

If a school counselor notifies the charter school whether a student has complied with the financial aid application requirement, the school counselor may only indicate whether the student has complied with this section and may not indicate the manner in which the student complied. TEC § 28.0256.

15. Extended School Year Services.

Extended school year (ESY) services means special education and related services that are provided to the child with a disability beyond the normal school year, in accordance with the child's IEP, and at no cost to the parents of the child. ESY services must meet the standards of

the TEA. 34 CFR § 300.106. **MOODY EARLY CHILDHOOD CENTER** must ensure that ESY services are available as necessary to provide a FAPE.

The provision of ESY services is limited to the educational needs of the child and must 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 child's IEP. 19 TAC § 89.1065. However, no child will be denied ESY services because the child receives care and treatment services under the auspices of other agencies.

In determining the need for and in providing ESY services, **MOODY EARLY CHILDHOOD CENTER** will not limit ESY services to particular categories of disability or unilaterally limit the type, amount, or duration of ESY services. 34 CFR § 300.106; 19 TAC § 89.1065.

i. Determination of Need

MOODY EARLY CHILDHOOD CENTER will only provide ESY services if the child's ARD committee determines, on an individual basis, that the services are necessary for the provision of FAPE. 34 CFR § 300.106; 19 TAC § 89.1065. If the charter school does not propose ESY services for discussion at the annual review of the child's IEP, the parent may request that the ARD committee discuss ESY services. 19 TAC § 89.1065.

If the child 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 must reconsider the current IEP if the child's loss of critical skills interferes with the implementation of the child's IEP. 19 TAC § 89.1065.

The ARD committee must determine the need for ESY services from formal and/or informal evaluations provided by the charter school or the parents. 19 TAC § 89.1065. For a child enrolling in the charter school during the school year, the ARD committee may consider information obtained from the prior school as well as information collected during the current year to determine the need for ESY services.

ii. Regression-Recoupment Analysis

The ARD committee must identify the critical areas addressed in the current IEP goals and objectives, if any, in which the child has exhibited, or reasonably may be expected to exhibit, severe or substantial regression that cannot be recouped within a reasonable period of time. 19 TAC § 89.1065.

Severe or substantial regression means that the child has been, or will be, unable to maintain one or more acquired critical skills in the absence of ESY services. 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:

1. Placement in a more restrictive instructional arrangement;
2. Significant loss of acquired skills necessary for the child to appropriately progress in the general curriculum;

3. 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;
4. 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
5. Loss of access to on-the-job training or productive employment as a result of regression in skills.

19 TAC § 89.1065. The reasonable period of time for recoupment of acquired skills must be determined on the basis of needs identified in the child'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 child 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 must not exceed eight weeks.

iii. Documentation in the IEP

If the ARD committee determines that the child needs ESY services, then the IEP must identify which of the goals and objectives in the current IEP will be addressed during ESY services. 19 TAC § 89.1055.

B. Policies

MOODY EARLY CHILDHOOD CENTER has adopted policies to implement its duty to provide students a FAPE. **MOODY EARLY CHILDHOOD CENTER** incorporates by reference the following policies:

1. *ARD Committee Membership*
2. *Parent Participation*
3. *ARD Committee Meeting*
4. *Amendment Without a Meeting*
5. *FAPE Composite*
6. *Transition and Graduation Composite*
7. *Least Restrictive Environment Composite*

These policies identify staff responsible, applicable timelines, and evidence of practice. **MOODY EARLY CHILDHOOD CENTER** shall maintain sufficient records regarding FAPE activities.

C. Resources

MOODY EARLY CHILDHOOD CENTER incorporates by reference the following resources regarding FAPE to assist it with complying with federal, state, and local requirements.

ARD meetings and IEP Development

- [Notice of Procedural Safeguards, February 2021 \(TEA\)](#)
- [Special Education Rules & Regulations \(TEA\)](#)
- [The Legal Framework for the Child-Centered Process: Glossary of Terms \(Region 18 ESC\)](#)
- [IEP Model Form \(TEA\)](#)
- [Model Form: Individualized Education Program \(OSEP\)](#)
- [OSERS Questions and Answers on Individualized Education Programs \(IEPs\), Evaluations, and Reevaluations \(September 2011\)](#)
- [Guidance on ARD Guide Production and Required Dissemination \(TEA\)](#)
- [Parent's Guide to the Admission, Review and Dismissal Process, February 2021 \(Region 18 ESC\)](#)
- [Individualized Education Program Facilitation \(TEA\)](#)
- [Texas Behavior Support \(TBS\) \(Region 4 ESC\)](#)
- [Positive Behavioral Interventions & Supports \(PBIS\) \(OSEP Technical Assistance Center\)](#)
- [Guidance Related to ARD Committee and LPAC Collaboration \(TEA\)](#)
- [Process for Considering Special Exit Criteria from Bilingual/English as a Second Language \(ESL\) Services \(TEA\)](#)
- [Texas School for the Blind and Visually Impaired \(TSBVI\)](#)
- [Programs and Administrative-Information and Resources \(TSBVI\)](#)
- [American Printing House for the Blind, Inc. \(APH-Nonprofit\)](#)
- [Sensory Impairments \(TEA\)](#)
- [Texas School for the Deaf \(TSD\)](#)
- [Educational Resource Center on Deafness \(ERCOD\) \(TSD\)](#)
- [Assistive Technology \(TEA\)](#)
- [Texas Assistive Technology Network \(TATN\) \(Region 4 ESC\)](#)
- [Texas State Leadership for Autism Training \(TSLAT\) \(Region 13 ESC\)](#)

Transition Services

- [Secondary Transition Guidance \(TEA\)](#)
- [Texas Transition - A Bridge to the Future \(Region 11 ESC\)](#)
- [General Information – SPP Indicator 13 \(TEA\)](#)
- [Transition of Students with Disabilities to Postsecondary Education: A Guide for High School Educators \(OCR\)](#)
- [NTACT: National Technical Assistance Center on Transition \(Funded by USDE\)](#)

Present Levels, Annual Goals, Special Education and Related Services

- [IEP Goal Development in Texas-Online Training \(Region 20 ESC\)](#)
- [Standards-Based Individualized Education Program Guidance \(TEA\)](#)
- [Texas Essential Knowledge and Skills \(TEKS\) \(TEA\)](#)
- [A Seven-Step Process to Creating Standards-Based IEPs \(OSEP\)](#)
- [Standards-Based IEP: Implementation Update \(NASDSE\)](#)
- [Standards-Based IEP Examples \(NASDSE\)](#)
- [IEP Annual Goal Development Question & Answer Document \(TEA & PGC Network\)](#)

- [Scientifically Based Research \(Region 10 ESC\)](#)
- [Response to Intervention \(RtI\) Resources \(Region 10 ESC\)](#)
- [Progress in the General Curriculum \(PGC\) Network \(Region 20 ESC\)](#)
- [Accelerated Instruction and Intensive Programs of Instruction for Students in Special Education Programs \(TEA\)](#)
- [Student Success Initiative \(TEA\)](#)
- [Related Services for Students with Disabilities–Questions and Answers \(TEA\)](#)
- [National Center on Intensive Intervention \(OSEP Technical Assistance Center\)](#)
- [Center for Parent Information and Resources \(OSEP Technical Assistance Center\)](#)
- [National Center on Accessible Educational Materials \(OSEP Technical Assistance Center\)](#)

Least Restrictive Environment

- [PGC Network: Least Restrictive Environment \(Region 20 ESC\)](#)

Residential Placement

- [Nonpublic Day and Residential Placement Notification and Application \(TEA\)](#)

Assessment

- [Assessments for Students with Disabilities \(TEA\)](#)
- [Accommodation Resources \(TEA\)](#)
- [Guidance Related to ARD Committee and LPAC Collaboration \(TEA\)](#)
- [STAAR Alternate 2 Resources \(TEA\)](#)

Graduation

- [Graduation Guidance \(TEA\)](#)
- [State Graduation Requirements \(TEA\)](#)
- [Individual Graduation Committee Frequently Asked Questions \(TEA\)](#)
- [Texas Essential Knowledge and Skills \(TEA\)](#)

Extended School Year

- [Extended School Year Services for Students with Disabilities \(TEA\)](#)

SPECIAL EDUCATION CROSSWALK

REGION 18 LEGAL FRAMEWORK	SLHA BOARD POLICIES	PROCEDURE TEMPLATES
Child Find		#CHILD FIND-Child Find Duty #CHILD FIND - Generic
State Funding: Special Allotments	6.20	
Open-Enrollment Charter Equal Educational Opportunity	6.3, 6.1	
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SEC. 1. NONDISCRIMINATION POLICY

No qualified student with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any service, program, or activity provided or offered by Moody Early Childhood Center.

42 U.S.C. 12132; 29 U.S.C. 794(a); 34 CFR 104.4(a).

SEC. 2. FREE APPROPRIATE PUBLIC EDUCATION

Eligible students with disabilities shall enjoy the right to a free appropriate public education (“FAPE”), which may include instruction in the regular classroom, instruction through special teaching, or instruction through approved contracts. Instruction shall be supplemented by the provision of related services when appropriate. Education Code 29.003(a).

FAPE means special education and related services that:

1. Have been provided at public expense, under public supervision and direction, and without charge;
2. Meet standards set out by Texas Education Agency (“TEA”);
3. Include an appropriate preschool, elementary school, or secondary school education; and
4. Are provided in conformity with the student’s individualized education program (“IEP”).

20 U.S.C. 1401(9); 34 CFR 300.13, 300.17, 300.36.

SEC. 3. LEAST RESTRICTIVE ENVIRONMENT

Moody Early Childhood Center shall ensure that, to the maximum extent possible, children with disabilities shall be educated with children who are not disabled. Special classes, special schooling, or other removal of children with disabilities from the regular educational environment shall occur only when the nature or severity of the child’s disability is such that education in regular classes with the use of supplementary aids and services cannot be satisfactorily achieved.

20 U.S.C. 1412(a)(5); 34 CFR 300.114(a)(2).

SEC. 4. DISCIPLINE

All disciplinary actions regarding students with disabilities shall be determined in accordance with applicable federal regulations, Education Code Chapter 37, 19 Administrative Code 89.1053, and Moody Early Childhood Center policy.

19 TAC 89.1050(g).

SEC. 5. INSTRUCTIONAL ARRANGEMENTS AND SETTINGS

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

1. Mainstream: services provided in the regular classroom in accordance with the student's IEP;
2. Homebound: services provided at home or hospital bedside;
3. Hospital class: services provided in a classroom, hospital facility, or residential care and treatment facility not operated by Moody Early Childhood Center;
4. Speech therapy: speech therapy services provided, whether in a regular education classroom or other setting;
5. Resource room/services: services provided in a setting other than the regular classroom for less than 50% of the regular school day;
6. Self-contained (mild, moderate, or severe) regular campus: services provided to a student who is in a self-contained program for 50% or more of the regular school day on a regular school campus;
7. Off home campus: services provided in an interdistrict program, through Moody Early Childhood Center personnel in a non-Moody Early Childhood Center facility, or at a Moody Early Childhood Center campus that provides only special education and related services.
8. Nonpublic day school: services provided through a contractual agreement with a nonpublic school;
9. Vocational adjustment class/program: services provided to a student who is placed on a job with regularly scheduled direct involvement by special education personnel in the implementation of the student's IEP;
10. Residential care and treatment facility (not Moody Early Childhood Center resident): services provided to students who reside in care and treatment facilities and whose parents do not reside within the boundaries of Moody Early Childhood Center;
11. State supported living center: services provided to a student who resides at a state supported living center when the services are provided at the state supported living center location; or
12. Other program options, including contracts with other districts and programs approved by TEA.

19 TAC 89.63(c), (f).

SEC. 6. RELATED SERVICES

“Related services” means transportation, and such developmental, corrective, and other supportive services as may be required to assist a child with a disability to benefit from special education, including the early identification and assessment of disabling conditions in children.

The term includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to receive a FAPE as described in the child’s IEP, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that medical services shall be for diagnostic and evaluation purposes only.

The term does not include a medical device that is surgically implanted, the optimization of the device’s functioning, or the replacement of such device.

20 U.S.C. 1401(26); 34 CFR 300.34.

SEC. 1. APPLICABILITY OF TEXAS EDUCATION CODE

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the Texas Education Code relating to special education programs.

Education Code 12.104(b)(2)(F).

Moody Early Childhood Center shall comply with the requirements for monitoring compliance with federal and state laws relating to special education pursuant to Texas Education Code Section 29.010.

SEC. 2. ASSURANCE

Open-enrollment charter schools must submit a plan to the Texas Education Agency that provides assurances that the charter school has in effect policies, procedures and programs that are consistent with the State and Federal policies and procedures governing special education.

20 U.S.C. 1413(a); 34 CFR 300.200-.201.

SEC. 3. PUBLIC EDUCATION INFORMATION MANAGEMENT SYSTEM (PEIMS)

“Most of the data TEA requests from school districts and charter schools are gathered using the Public Education Information Management System (“PEIMS”). PEIMS data are used for the Academic Excellence Indicator System (“AEIS”), Foundation School Program (“FSP”), statistical purposes, federal reporting, legislative requests, and audit purposes. Through PEIMS, schools report data including student demographic and academic performance, student attendance, personnel information, financial data, and organizational information.” *Texas Open-Enrollment Charter School Handbook* (TEA, Division of Charter School Administration, September 2011).

SEC. 4. APPLICABILITY OF TITLE RELATING TO THE PEIMS

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the Texas Education Code, relating to the PEIMS to the extent necessary to monitor compliance with Subchapter D (Open-Enrollment Charter School), Chapter 12, Texas Education Code.

Education Code 12.104(b)(2)(A).

The Superintendent or designee shall prepare required PEIMS submissions in accordance with PEIMS Data Standards and Module 10 of the Financial Accountability System Resource Guide. The Superintendent or designee may collaborate with the regional education service center in preparing and timely submitting PEIMS reports.

SEC. 5. CONTRACTS FOR SERVICES; RESIDENTIAL PLACEMENT

Moody Early Childhood Center may contract with a public or private facility, institution, or agency inside or outside of this State for the provision of services to students with disabilities. Each contract for residential placement must be approved by the Commissioner. The Commissioner may approve a residential placement contract only after at least a programmatic evaluation of personnel qualifications, adequacy of physical plant and equipment, and curriculum content. The Commissioner may approve either the whole or a part of a facility or program.

Education Code 29.008(a).

When a student, including one for whom the State is managing conservator, is placed primarily for care or treatment reasons in a private residential facility that operates its own private education program, none of the costs may be paid from public education funds. If a residential placement primarily for care or treatment reasons involves a private residential facility in which the education program is provided by the open-enrollment charter school, the portion of the costs that includes appropriate education services, as determined by the admission, review, and dismissal (“ARD”) committee, shall be paid from State and Federal education funds.

Education Code 29.008(c)..

If Moody Early Childhood Center contracts for the provision of education services rather than providing the services, Moody Early Childhood Center shall oversee the implementation of the student’s individualized education program (“IEP”) and shall annually reevaluate the appropriateness of the arrangement. An approved facility, institution, or agency with whom Moody Early Childhood Center contracts shall periodically report to Moody Early Childhood Center on the services the student has received or will receive in accordance with the contract as well as diagnostic or other evaluative information that Moody Early Childhood Center requires in order to fulfill its obligations under Subchapter A (Special Education), Chapter 29, Texas Education Code.

Education Code 29.008(d).

SEC. 6. FACILITIES

Any construction of new facilities or alteration of existing facilities with authorized Individuals with Disabilities Education Act (“IDEA”) program funds must comply with the requirements of:

- Appendix A of Part 36 of Title 28, Code of Federal Regulations (commonly known as the *Americans with Disabilities Accessibility Guidelines for Buildings and Facilities*); and
- Appendix A of Subpart 101-19.6 of Title 41, Code of Federal Regulations (commonly known as the *Uniform Federal Accessibility Standards*).

SEC. 7. ADMINISTRATION OF EQUIPMENT

The ARD committee must consider whether the student needs assistive technology devices (“ATDs”) as part of the student’s special education, related services, or supplementary aids and services. On a case-by-case basis, the use of school-purchased ATDs in the student’s home or in other settings is required if the student’s ARD committee determines that the student needs access to those devices in order to receive free appropriate public education. (34 CFR §§300.105; 300.324(a)(2)(v); 20 USC §1414(d)(3)(B)(v))

Assistive technology means any device or equipment used to improve or maintain the function capabilities of a student with a disability. Assistive technology does not include a medical device that is surgically implanted. (34 CFR §§300.5-300.6)

Moody Early Childhood Center may transfer an ATD in accordance to TEC, §30.0015. The transfer agreement must include the standards in TEC §30.0015, including the following:

- 1) The transferor and transferee must represent and agree that the terms of the transfer are based on the fair market value of the ATD, determined in accordance with generally accepted accounting principles.
- 2) The informed consent of the parent of the student with a disability, or the adult student, for whom the ATD is being transferred must be obtained before the transfer of an ATD pursuant to TEC, §30.0015. The procedures employed by Moody Early Childhood Center in obtaining informed consent shall be consistent with the procedures employed by the school to obtain parental consent under 34 CFR §300.300. Consistent with 34 CFR, §300.505(c), informed parental or adult student consent need not be obtained if the school can demonstrate that it has taken reasonable measures to obtain that consent, and the student’s parent or the adult student has failed to respond. To meet the reasonable measures requirement, the school must use procedures consistent with those described in 34 CFR, §300.322(d).
- 3) If the transfer is a sale, then the sale of the ATD shall be evidenced by a “Uniform Transfer Agreement” which includes the following:

- a. the names of the transferor and the transferee (which may be any individual or entity identified in TEC, §30.0015(b));
- b. the date of the transfer;
- c. a description of the ATD being transferred;
- d. the terms of the transfer (including the transfer of warranties, to the extent applicable); and
- e. the signatures of authorized representatives of both transferor and transferee.

(19 TAC 89.1056)

SEC. 8. SPECIAL EDUCATION TEACHER DEFINED (20 U.S.C. §1401(10)(B)(i))

When used with respect to any public elementary school or secondary school special education teacher teaching in a State, such term means that—the teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State’s public charter school law.

SEC. 9. COMPLIANCE WITH FEDERAL AND STATE PERSONNEL STANDARDS FOR INDIVIDUALS SERVING CHILDREN WITH DISABILITIES

Moody Early Childhood Center shall ensure that personnel standards for all individuals serving children with disabilities are met in accordance with the IDEA and its procedures.

Moody Early Childhood Center recognizes that both the Every Student Succeeds Act and the IDEA provide that charter school teachers must meet the requirements set forth in the State’s public charter school law. 20 U.S.C. §§ 6311(g)(2)(J); 20 U.S.C. §1401(10)(B)(i). In Texas, that means that the charter school special education teacher must be certified.

Moody Early Childhood Center shall make an ongoing good-faith effort to recruit and hire appropriately and adequately certified and/or licensed personnel to provide a wide range of special education and related services to students with disabilities who are eligible for special education services. Special education staffing needs come from the individualized decisions made by the Admission Review and Dismissal (“ARD”) committee.

Moody Early Childhood Center shall ensure that all personnel necessary to carry out the requirements of the IDEA 2004 are appropriately and adequately certified and/or licensed, prepared and assigned.

Moody Early Childhood Center adopts as policy the provisions under State and Federal law concerning personnel, including:

Charter school teachers must only meet the requirements of the State's public charter school law, which differ from the requirements for Texas teacher certification. In Texas, State law does not require a teacher employed by an open-enrollment charter school to be certified unless the teacher is assigned to teach in special education or bilingual education programs, in which case the appropriate State certification is required. The minimum qualification under State law for a teacher at an open-enrollment charter school, other than a special education or bilingual education teacher, is a bachelor's degree. However, the governing body of Moody Early Childhood Center may set the qualifications for teachers at a standard above what State law requires.

The open-enrollment charter school shall not employ a person as a teacher unless that person holds a bachelor's degree.

Education Code 12.129(a).

In an open-enrollment charter school that serves youth referred to or placed in a residential trade center by a local or state agency, a person may be employed as a teacher for a noncore vocational course without holding a baccalaureate degree if the person has demonstrated subject matter expertise related to the subject taught, such as professional work experience, formal training and education, holding a relevant active professional industry license, certification, or registration, or any combination of work experience, training and education, and industry license, certification, or registration, and received at least 20 hours of classroom management training as determined by the governing body of the open-enrollment charter school.

Education Code 12.129(b).

All special education and related service personnel shall be certified, endorsed, or licensed in the area or areas of assignment in accordance with 34 CFR 300.156; Education Code Section 21.002, 21.003, and 29.304; or appropriate state agency credentials.

19 TAC89.1131(a).

SEC. 10. NOTICE TO PARENTS – QUALIFICATIONS

The Superintendent or designee shall provide to the parent or guardian of each student enrolled in Moody Early Childhood Center written notice of the qualifications of each teacher employed by Moody Early Childhood Center.

Additionally, the Superintendent or designee shall, at the beginning of each school year, notify the parents of each student attending Moody Early Childhood Center that the parents may request, and Moody Early Childhood Center shall provide the parents on request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, the following:

1. Whether the teacher has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.
2. Whether the teacher is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived.
3. Whether the teacher is teaching in the field of discipline of the certification of the teacher.
4. Whether the child is provided services by paraprofessionals and, if so, their qualifications.

Moody Early Childhood Center shall also provide to each individual parent timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable state certification standards or licensure requirements at the grade level and subject area in which the teacher has been assigned.

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SEC. 1. ADMISSION, REVIEW AND DISMISSAL COMMITTEES

Moody Early Childhood Center shall establish an admission, review and dismissal (“ARD”) committee for each eligible student with a disability and for each student for whom a full and individual initial evaluation is conducted. The ARD committee shall be the individualized education program (“IEP”) team defined at 34 CFR 300.321.

SEC. 2. ARD COMMITTEE RESPONSIBILITIES

The ARD committee and Moody Early Childhood Center are responsible for:

1. Evaluating, reevaluating, and determining eligibility for special education and related services;
2. Placement of students with disabilities, including disciplinary changes in placement;
3. Development of student IEPs;
4. Development and implementation of service plans for students who have been placed by their parents in private schools and who have been designated to receive special education and related services;
5. Compliance with the least restrictive environment standard;
6. Compliance with state requirements for reading diagnosis and state assessments;
7. Development of personal graduation plans;
8. Development of accelerated instruction under Education Code 28.0211 and intensive programs of instruction under Education Code 28.0213;
9. Evaluation, placement, and coordination of services for students who are deaf, hard of hearing, blind, or visually impaired; and
10. Determining eligibility for extracurricular activities, under Education Code 33.081.

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

SEC. 3. COMMITTEE MEMBERS

Moody Early Childhood Center shall ensure that each ARD committee meeting includes:

1. The parents of a child with a disability;
2. At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment) who must, to the extent practicable, be a teacher who is responsible for implementing a portion of the student’s IEP;
3. At least one special education teacher, or where appropriate, at least one special education provider of the child;
4. A representative of Moody Early Childhood Center 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

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- c. Is knowledgeable about the availability of Moody Early Childhood Center’s resources;
5. An individual who can interpret the instructional implications of evaluation results, who may be a member of team described in Section 3(2)-(6);
6. At the discretion of the parent or Moody Early Childhood Center, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate;
7. The child, whenever appropriate;
8. To the extent appropriate, with the consent of the parent(s) or a student who has reached the age of majority, a representative of any participating agency that is likely to be responsible for providing or paying for transition services;
9. A representative from career and technical education (“CTE”), preferably the teacher, when considering initial or continued placement of a student in CTE;
10. For a child who is an emergent bilingual student, a member of the child’s language-proficiency assessment committee (“LPAC”);
11. For a child with an auditory impairment, including deaf-blindness, a teacher who is certified in the education of children with auditory impairments; and
12. For a child with a visual impairment, including deaf-blindness, a teacher who is certified in the education of children with visual impairments.

19 TAC 89.1050.

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

A Moody Early Childhood Center member of the ARD committee may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member’s area of curriculum or related services if the parent, in writing, and Moody Early Childhood Center consent to the excusal and the member submits, in writing, to the parent and the ARD committee, input into the development of the IEP before the meeting.

20 U.S.C. 1414(d)(1)(C); 34 CFR 300.321(e).

a) Transition Meeting Membership

If the ARD committee is meeting to consider postsecondary goals and the transition services needed to assist the student in reaching those goals, Moody Early Childhood Center shall invite:

1. The student. If the student does not attend, Moody Early Childhood Center shall take other steps to ensure that the student’s preferences and interests are considered.

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2. To the extent appropriate, and with the consent of the parent or student who has reached the age of majority, a representative of any other agency that is likely to be responsible for providing or paying for transition services.

34 CFR 300.321(b).

SEC. 4. PARENTAL INVOLVEMENT

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

1. Notifying the parents of the meeting early enough to ensure that they will have an opportunity to attend (the notice shall include all information required by applicable regulation); and
2. Scheduling the meeting at a mutually agreed time and place.

34 CFR 300.322(a)–(b); 19 TAC 89.1050.

SEC. 5. ALTERNATIVE PARTICIPATION METHODS

If neither parent can attend an ARD committee meeting, Moody Early Childhood Center must use other methods to ensure parent participation, including individual or conference telephone calls.

20 U.S.C. 1414(f); 34 CFR 300.322(c).

An ARD committee meeting may be conducted without a parent in attendance if Moody Early Childhood Center is unable to convince the parents that they should attend. In such event, Moody Early Childhood Center must keep a record of its attempts to arrange a mutually agreed time and place, such as:

1. Detailed records of telephone calls made or attempted and the results of those calls;
2. Copies of correspondence sent to the parents and any responses received; and
3. Detailed records of visits made to the parent's home or place of employment and the results of those visits.

34 CFR 300.322(d).

SEC. 6. ARD COMMITTEE MEETINGS

Moody Early Childhood Center shall initiate and conduct ARD committee meetings for the purpose of developing, reviewing, and revising the IEP of a student with a disability. The committee shall review each student's IEP periodically, and, if appropriate, revise the IEP. A

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meeting must be held for this purpose at least once a year. The ARD committee must also determine the child's placement once per year.

If the student has a behavioral intervention plan ("BIP") as part of the child's IEP, the ARD committee must review the BIP at least annually and more frequently if appropriate to address the safety of the student, the safety of others, or changes in the child's circumstances that may impact the child's behavior in accordance with TEC 29.005(h).

A meeting does not include informal or unscheduled conversations involving Moody Early Childhood Center personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that Moody Early Childhood Center personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

20 U.S.C. 1414(d)(4); 34 CFR 300.116(b)(1), 300.324(b), (c)(1); 300.501(b)(3).

a) Meeting at Parent Request

Upon request of a written request for an ARD committee meeting from a parent, the Moody Early Childhood Center must (1) schedule and convene a meeting; or (2) within five school days, provide the parent with written notice explaining why the district refuses to convene a meeting.

19 TAC 89.1050(e).

b) Transfer Students

If a student transfers to Moody Early Childhood Center, and the student had a previous IEP in place, Moody Early Childhood Center shall provide the student with a free appropriate public education ("FAPE"), including services comparable to those described in the previous IEP, in consultation with the parents, until:

1. In the case of a student who transfers within the state, Moody Early Childhood Center adopts the previous IEP or develops, adopts, and implements a new IEP.
2. In the case of a student who had an IEP in effect in another state, Moody Early Childhood Center conducts an evaluation, if determined necessary by Moody Early Childhood Center, and develops, adopts, and implements a new IEP, if appropriate.

20 U.S.C. 1414(d)(2)(C)(i); 34 CFR 300.323(e), (f).

c) Transfer of Records

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Moody Early Childhood Centers shall take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the child's previous district.

20 U.S.C. 1414(d)(2)(C)(ii); 34 CFR 300.323(g).

d) Military Dependents

Moody Early Childhood Center shall initially provide comparable services to a military student with disabilities based on his or her current IEP. This does not preclude Moody Early Childhood Center from performing subsequent evaluations to ensure appropriate placement of the student.

Education Code 162.002 art. V, § C.

SEC. 7. ELIGIBILITY DETERMINATIONS

The group of qualified professionals that determines whether a child is a child with a disability and the child's educational needs is the ARD committee.

Evaluations and eligibility determinations shall adhere to the requirements set forth in the IDEA, the Texas Education Code, and their implementing regulations. For additional information, see PG-6.14 through 6.16.

19 TAC 89.1040(b), 89.1050(a)(5); 34 CFR 300.306(a)(1).

Moody Early Childhood Center shall provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

20 U.S.C. 1414(b)(4)(B); 34 CFR 300.306(a).

The ARD committee must make its decisions regarding a student's initial eligibility determination and, when appropriate, the student's IEP and placement within the timeframes prescribed by state and federal law.

19 TAC 89.1011(d), (e).

SEC. 8. INDIVIDUALIZED EDUCATION PROGRAM

Moody Early Childhood Center shall develop, review, and revise an IEP for each child with a disability, and Moody Early Childhood Center shall have an IEP in effect for each child with a disability at the beginning of each school year.

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20 U.S.C. 1412(a)(4),(d)(2)(A); 34 CFR 300.320(a).

The term “individualized education program” or “IEP” means a written statement for each child with a disability that includes:

1. A statement of the child’s present levels of academic achievement and functional performance;
2. A statement of measurable annual goals, including academic and functional goals;
3. A description of how the child’s progress toward the annual goals will be measured and when periodic reports on the progress of the child will be provided;
4. A statement of the specific special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child;
5. A statement of the program modifications or supports for school personnel that will be provided for the child;
6. An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in extracurricular and nonacademic activities;
7. The projected dates for initiation of services and modifications and the anticipated frequency, location, and duration of these services and modifications;
8. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state or system-wide assessments;
9. If the ARD committee determines that the child must take an alternative assessment instead of a particular regular state or system-wide assessment, a statement of why the child cannot participate in the regular assessment and why the particular assessment selected is appropriate for the child;
10. Beginning not later than the first IEP to be in effect when the child is 16, or younger if determined appropriate by the ARD committee, and updated annually thereafter, a statement of appropriate, measurable postsecondary goals and transition services needed to assist the child in reaching those goals; and
11. Beginning not later than one year before the child reaches the age of 17, a statement that the child has been informed of the rights that will transfer to the child upon reaching the age of majority.

20 U.S.C. 1414(d); 34 CFR 300.320; 19 TAC 89.1055.

SEC. 9. TRANSLATING IEPs

If the child’s parent is unable to speak English, Moody Early Childhood Center shall:

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1. Provide the parent with a written or audio-taped copy of the child’s IEP translated into Spanish if Spanish is the parent’s native language; or
2. If the parent’s native language is a language other than Spanish, make a good faith effort to provide the parent with a written or audiotaped copy of the child’s IEP translated into the parent’s native language.

Education Code 29.005(d).

SEC. 10. AUTISM/PERVASIVE DEVELOPMENTAL DISORDERS

For students with autism/pervasive developmental disorders, the following strategies shall be considered by the ARD committee, based on peer-reviewed, research-based educational programming practices to the extent practicable and, when needed, addressed in the IEP:

1. Extended educational programming;
2. Daily schedules reflecting minimal unstructured time and active engagement in learning activities;
3. In-home training and community-based training or viable alternatives that assist the student with the acquisition of social/behavioral skills;
4. Positive behavior support strategies based on relevant information;
5. Beginning at any age, futures planning for integrated living, work, community, and educational environments that considers skills necessary to function in current and post-secondary environments;
6. Parent/family training and support, provided by qualified personnel with experience in Autism Spectrum Disorders (“ASD”);
7. Suitable staff-to-student ratio appropriate to identified activities and as needed to achieve social/behavioral progress based on the child’s developmental and learning level (acquisition, fluency, maintenance, generalization) that encourages work towards individual independence;
8. Communication interventions, including language forms and functions that enhance effective communication across settings;
9. Social skills supports and strategies based on social skills assessment/curriculum and provided across settings;
10. Professional educator/staff support; and
11. Teaching strategies based on peer-reviewed, research-based practices for students with ASD.

If the ARD committee determines that services are not needed in one or more of the areas in 1–11 above, the IEP shall include a statement reflecting that decision and the basis upon which the determination was made.

19 TAC 89.1055(e)–(f).

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SEC. 11. VISUAL IMPAIRMENT

Moody Early Childhood Center shall adopt written procedures as required in Education Code 30.002(c)(10) for providing special education services to students with visual impairments, if such services are necessary.

19 TAC 89.1075(b).

An IEP for a student with a visual impairment must include instruction in braille unless the student's ARD committee determines and documents that braille is not an appropriate literacy medium for the student, based on an evaluation of the student's appropriate literacy media and literacy skills and the student's current and future instructional needs.

Education Code 30.002.

SEC. 12. STUDENTS WHO ARE DEAF OR HARD OF HEARING

Moody Early Childhood Center must develop an IEP for students who are deaf or hard of hearing in which the students have an education in which their unique communication mode is respected, used, and developed to an appropriate level of proficiency.

Education Code 29.303.

SEC. 13. COLLABORATIVE PROCESS

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

a) Recess

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

1. The student's presence on campus represents a danger of physical harm to the student or others;
2. The student has committed an expellable offense; or
3. The student has committed an offense that may lead to placement in a disciplinary alternative education program.

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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 Moody Early Childhood Center to reach agreement about all required elements of an IEP.

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

The date, time, and place for continuing the ARD committee meeting shall be determined by agreement before the recess.

19 TAC 89.1050(g).

When an ARD committee agrees to recess and reconvene due to a lack of mutual agreement about one or more required IEP elements, the parent or Moody Early Childhood Center may request an independent facilitator from the Texas Education Agency in accordance with 19 TAC 89.1197 and TEC 29.020.

b) No Agreement Reached

If, after the ten-day recess, the ARD committee still cannot reach agreement, Moody Early Childhood Center shall implement the IEP that it has determined to be appropriate for the student. A written statement of the basis for the disagreement shall be included in the IEP. Each ARD committee member who disagrees with the IEP is entitled to include a statement of disagreement in the IEP.

TEC 29.005(c); 19 TAC 89.1050(g).

When Moody Early Childhood Center implements an IEP with which the parents or an adult student disagree, it shall provide prior written notice in compliance with applicable regulations and Moody Early Childhood Center policy.

19 TAC 89.1050.

SEC. 14. IEP MODIFICATION

After a student's annual ARD committee meeting, changes to an IEP may be made either by the entire ARD committee or by amending the IEP by agreement, rather than redrafting the entire IEP.

To do so, the parent and Moody Early Childhood Center must agree to not convene an ARD committee meeting to amend the IEP and Moody Early Childhood Center must develop a written document to amend or modify the IEP.

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

Decisions regarding eligibility, changes of placement, and manifestation determination reviews may not be conducted through the amendment process.

34 CFR 300.324(a)(4),(6).

To the extent possible, Moody Early Childhood Center shall encourage the consolidation of reevaluation meetings for the child and other ARD committee meetings for the child.

20 U.S.C. 1414(d)(3)(D)–(F); 34 CFR 300.324(a)(4)–(a)(6).

SEC. 15. LEAST RESTRICTIVE ENVIRONMENT

Moody Early Childhood Center shall ensure that, to the maximum extent possible, children with disabilities shall be educated with children who are not disabled. Special classes, special schooling, or other removal of children with disabilities from the regular educational environment shall occur only when the nature or severity of the child's disability is such that education in regular classes with the use of supplementary aids and services cannot be satisfactorily achieved.

20 U.S.C. 1412(a)(5); 34 CFR 300.114(a)(2).

SEC. 16. EXTENDED SCHOOL YEAR SERVICES

Moody Early Childhood Center shall ensure that ESY services are available as necessary to provide a student with a disability with a FAPE.

ESY services must be provided only if the ARD committee determines, on an individual basis, that the services are necessary for a FAPE. Moody Early Childhood Center may not limit ESY services to particular categories of disability or unilaterally limit the type, amount, or duration of ESY services.

34 CFR 300.106; 19 TAC 89.1065.

SEC. 17. GRADUATION

A student receiving special education services who successfully completes the requirements of his or her IEP, including performance on a state assessment required for graduation, shall receive a high school diploma. A student's ARD committee shall determine if the student will be required to meet satisfactory performance on an assessment for purposes of graduation.

19 TAC 101.3023(a).

SEC. 18. STATE ASSESSMENTS

The TEA shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program for whom a state assessment instrument adopted under Education Code 39.023(a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's ARD committee, including assessment instruments approved by the Commissioner that measures growth. The assessment instruments developed or adopted, including the assessment instruments approved by the Commissioner, must, to the extent allowed under federal law, provide a district with options for the assessment of students.

The TEA may not adopt a performance standard that indicates that a student's performance on the alternate assessment does not meet standards if the lowest level of the assessment accurately represents the student's developmental level as determined by the student's ARD committee.

The student's ARD committee shall determine whether any allowable modification is necessary in administering to the student a required end-of-course ("EOC") assessment instrument under Education Code 39.023(c), and whether the student is required to achieve satisfactory performance on an EOC assessment instrument to receive a high school diploma.

SEC. 19. TRANSPORTATION

Moody Early Childhood Center shall provide special transportation with federal funds only when the ARD committee determines that the condition of the student warrants the service in order for the student to receive the special education and related services (if any) set forth in the IEP.

19 TAC 89.1096(e).

SEC. 20. TRANSITION SERVICES

a) Definitions

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

1. Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.
2. Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes:
 - a. Instruction;

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- b. Related services;
- c. Community experiences;
- d. The development of employment and other post-school adult living objectives; and
- e. If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

20 U.S.C. 1401(34); 34 CFR 300.43.

b) Individual Transition Planning

In accordance with Education Code 29.011 and 29.0111, not later than when a student reaches 14 years of age, the ARD committee must consider, and if appropriate, address the following issues in the IEP:

1. Appropriate student involvement in the student's transition to life outside the public school system;
2. If the student is younger than 18 years of age, appropriate parental involvement in the student's transition;
3. If the student is at least 18 years of age, appropriate parental involvement in the student's transition, if the parent is invited to participate by the student or Moody Early Childhood Center;
4. Any postsecondary education options;
5. A functional vocational evaluation;
6. Employment goals and objectives;
7. If the student is at least 18 years of age, the availability of age-appropriate instructional environments;
8. Independent living goals and objectives; and
9. Appropriate circumstances for referring a student or the student's parents to a governmental agency for services.

In accordance with 34 C.F.R. 300.320(b), beginning not later than the first IEP to be in effect when the student turns 16 years of age, or younger if determined appropriate by the ARD committee, and updated annually thereafter, the IEP must include the following:

1. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
2. The transition services, including courses of study, needed to assist the student in reaching the postsecondary goals developed under paragraph (1) of this subsection.

20 U.S.C. 1414(d)(1)(A)(i)(VIII), 1414(d)(6); 34 C.F.R. 300.320(b); Education Code 29.0111; 19 TAC 89.1055(h), (j).

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Moody Early Childhood Center shall post the transition and employment guide on the Moody Early Childhood Center website if Moody Early Childhood Center maintains a website; provide written information and, if necessary, assistance to a student or parent regarding how to access the electronic version of the guide at: (A) the first meeting of the student's ARD committee at which transition is discussed; and (B) the first committee meeting at which transition is discussed that occurs after the date on which the guide is updated. Upon request, Moody Early Childhood Center shall provide a printed copy of the guide to a student or parent.

Education Code 29.0112.

c) Graduation

Graduation with a regular high school diploma under 19 TAC 89.1070(b)(1), (b)(2)(D), (f)(1), (f)(2), or (f)(3)(D) terminates a student's eligibility for special education services. For students who receive a diploma according to 19 TAC 89.1070(b)(2)(A), (B), or (C) or (f)(3)(A), (B), or (C), the ARD committee shall determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age requirements.

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

Moody Early Childhood Center is not required to conduct an evaluation before termination of eligibility due to graduation from secondary school with a regular high school diploma or due to exceeding the age eligibility for a FAPE under state law.

Moody Early Childhood Center shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

20 U.S.C. 1414(c)(5); 34 CFR 300.102(a)(3), 300.305(e)(2); 19 TAC 89.1070.

SEC. 21. BEHAVIOR IMPROVEMENT PLANS/BEHAVIOR INTERVENTION PLANS

The ARD committee may determine that a behavior improvement plan or a behavioral intervention plan ("BIP") is appropriate for a student with an IEP. If deemed appropriate, the BIP shall be included as part of the student's IEP and provided to each teacher with responsibility for educating the student.

If a BIP is included as part of a student's IEP, the ARD committee shall review the plan at least annually and more frequently if appropriate to address:

1. changes in a student's circumstances that may impact the student's behavior, such as:
 - a. the placement of the student in a different educational setting;

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- b. an increase or persistence in disciplinary actions taken regarding the student for similar types of behavioral incidents;
 - c. a pattern of unexcused absences; or
 - d. an unauthorized unsupervised departure from an educational setting; or
2. the safety of the student or others.

Education Code 29.005(g),(h).

SEC. 22. COVID-19 SPECIAL EDUCATION RECOVERY ACT¹

a) ***IEP Supplement Applicability***

Not later than May 1, 2022, Moody Early Childhood Center shall prepare a supplement to be included with the IEP developed under Education Code 29.005(b) for each child who was enrolled in Moody Early Childhood Center special education program during the 2019-2020 school year or the 2020-2021 school year.

b) ***Required Content***

The supplement must include information indicating:

1. if applicable, whether the written report of the child's full individual and initial evaluation under Education Code 29.004 was completed during the 2019-2020 school year or the 2020-2021 school year and, if so, whether the report was completed by the date required under section 29.004;
2. if applicable, whether the child's initial IEP was developed under Education Code 29.005(b) during the 2019-2020 school year or the 2020-2021 school year and, if so, whether the program was developed by the date required under 34 CFR 300.323(c)(1);
3. whether the provision of special services to the child under an IEP during the 2019-2020 school year or the 2020-2021 school year was interrupted, reduced, delayed, suspended, or discontinued; and
4. whether compensatory educational services are appropriate for the child based on the information under (1)-(3) above or any other factors.

c) ***Exception***

Education Code 29.0052 does not apply to a child if during the 2020-2021 school year the child's IEP documents the information described in Subsections (b)(1)-(4) above.

Education Code 29.0052.

¹ The provisions set forth in Section 22 expire Sept. 1, 2023.

SEC. 23. SUPPLEMENTAL SPECIAL EDUCATION SERVICES PROGRAM

The Texas Education Agency (“TEA”) shall establish and administer a supplemental special education services program under Chapter 29, Education Code, Subchapter A-1 (“the SSES Program”). The SSES Program provides a grant of not more than \$1,500 to the parent of an eligible student for purchase of certain supplemental special education services and supplemental special education instructional materials.

a) ARD Committee Duties

For a student who has been approved to participate in the SSES Program, the ARD committee shall meet and provide to the parent:

1. Information regarding the types of supplemental special education services available under the SSES Program and provided by TEA-approved providers for which an account maintained under Education Code 29.042(b) may be used; and
2. Instructions regarding accessing the SSES Program account.

Education Code 29.048(b).

b) ARD Committee Prohibited Considerations

The ARD committee shall not consider a student’s receipt of services under the SSES Program when developing the student’s IEP.

Education Code 29.048(a).

SEC. 1. AGE OF MAJORITY – TRANSFER OF RIGHTS

Not later than one year before the 18th birthday of a student with a disability, Moody Early Childhood Center shall:

1. Provide to the student and the student’s parents:
 - a. Written notice regarding the transfer of rights; and
 - b. Information and resources regarding guardianship, alternatives to guardianship, including a supported decision-making agreement under Estates Code, Chapter 1357, and other supports and services that may enable the student to live independently; and
2. Ensure that the student’s individualized education program (“IEP”) includes a statement that Moody Early Childhood Center provided the required notice, information, and resources.

When a student reaches the age of majority (18 years of age), Moody Early Childhood Center shall provide written notice to the student and the student’s parents of the transfer of parental rights. The notice must include the information required above.

This notice is separate and distinct from the requirement that, beginning at least one year before the student reaches the age of 18, the student’s IEP include a statement regarding transfer of parental rights.

If a student with a disability or the student’s parent requests information regarding guardianship or alternatives to guardianship, Moody Early Childhood Center shall provide the student or parent information and resources on supported decision-making agreements under Estates Code, Chapter 1357.

A student with a disability who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Chapter 31, Family Code, shall have the same right to make educational decisions as a student without a disability. All other rights accorded to parents under Chapter 29, Subchapter A of the Education Code or 20 U.S.C. 1415 transfer to the student.

34 CFR 300.520; Education Code 29.017(a), (c), (c-1), (c-2); 19 TAC 89.1049(c).

SEC. 1. PREKINDERGARTEN PROGRAMS

a) Tuition-Free Program

Moody Early Childhood Center shall offer tuition-free prekindergarten classes if it identifies 15 or more eligible children who are at least four years of age. Moody Early Childhood Center may offer tuition-free prekindergarten classes if it identifies 15 or more eligible children who are at least three years of age.

i. Exemption

Moody Early Childhood Center may apply to the Commissioner of Education for an exemption from the requirement that it provide a free prekindergarten program if Moody Early Childhood Center would be required to construct classroom facilities in order to provide the program.

ii. Half-Day Basis

A tuition-free prekindergarten class may be operated on a half-day basis for children under four years of age and shall be operated on a full-day basis for children who are at least four years of age.

iii. Program Eligibility

A child is eligible for enrollment in free prekindergarten if the child is at least three years of age and:

1. Is unable to speak and comprehend the English language;
2. Is educationally disadvantaged;
3. Is homeless, as defined by federal law, regardless of the residence of the child, of either parent of the child, or of the child's guardian or other person having lawful control;
4. Is the child of an active duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who is ordered to active duty by proper authority;
5. Is the child of a member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who was injured or killed while serving on active duty; or
6. Is or ever has been in:
 - a. the conservatorship of the Department of Family and Protective Services following an adversary hearing under Family Code 262.201; or

- b. foster care in another state or territory, if the child resides in this state;
- 7. Is the child of a person eligible for the Star of Texas Award as:
 - a. A peace officer under Section 3106.002, Government Code;
 - b. A firefighter under Section 3106.003, Government Code; or
 - c. An emergency medical first responder under Section 3106.004, Government Code.

A child who is eligible for enrollment under items 4 or 5 above remains eligible if the child's parent leaves the armed forces, or is no longer on active duty, after the child begins the prekindergarten class.

iv. Public Notice

The Superintendent shall develop a system to notify the population in the community with children eligible for enrollment of the availability of the program. The system must include public notices issued in English and Spanish.

v. Transportation

Moody Early Childhood Center is not required to provide transportation for a prekindergarten class. If transportation is provided, it is included for funding purposes as part of the regular transportation system.

vi. High-Quality Prekindergarten Required

A free prekindergarten class for children who are at least four years of age must comply with the program standards required for high-quality prekindergarten programs under Education Code Chapter 29, Subchapter E-1.

SEC. 2. PRESCHOOL-AGED CHILDREN

If Moody Early Childhood Center offers preschool, Moody Early Childhood Center must provide a free appropriate public education ("FAPE") in the least restrictive environment to preschool-aged students even if Moody Early Childhood Center does not provide free preschool programs to all preschool-aged children.

34 C.F.R. 300.101(a)-(b) and §300.116.

Moody Early Childhood Center may provide opportunities for the participation of the preschool students with disabilities in other preschool programs operated by public agencies or by locating classes for preschool students with disabilities in regular elementary schools. However, Moody Early Childhood Center is not required to initiate preschool programs or to establish extensive contact programs with private schools which serve both students with disabilities and students without disabilities solely to satisfy the requirements regarding placement in the least restrictive environment.

OSEP Policy Memo 89-23; 34 C.F.R. 300.102(a).

Moody Early Childhood Center shall develop a system to notify residents within Moody Early Childhood Center's boundaries with children who are at least three but younger than six and who are eligible for enrollment in a special education program of the availability of such programs.

Education Code 29.009.

Sec. 3. TRANSITION OF CHILDREN FROM PART C

By the third birthday of a child participating in early intervention programs the Moody Early Childhood Center must ensure that an individualized education program ("IEP") or an individualized family service plan ("IFSP"), has been developed and is being implemented for the child.

In the case of a child with a disability aged three through five the ARD committee must consider an IFSP that contains the IFSP content (including the natural environments statement, educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with IFSPs under this section who are at least three years of age), and that is developed in accordance with the IEP procedures.

34 CFR 300.323(b).

Sec. 6.4.4 COMMUNICATION MODE OF DEAF OR HARD OF HEARING CHILD

The comprehensive statewide plan for the education of children with visual impairments must:

1. Adequately provide for comprehensive diagnosis and evaluation of each school-age child with a serious visual impairment;
2. Include the procedures, format, and content of the IEP for each child with a visual impairment;

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3. Emphasize providing educational services to children with visual impairments in their home communities whenever possible;
4. Include methods to ensure that children with visual impairments receiving special education services in school districts receive, before being placed in a classroom setting or within a reasonable time after placement: (A) evaluation of the impairment; and (B) instruction in an expanded core curriculum, which is required for students with visual impairments to succeed in classroom settings and to derive lasting, practical benefits from the education provided by school districts, including instruction in: (i) compensatory skills, such as braille and concept development, and other skills needed to access the rest of the curriculum; (ii) orientation and mobility; (iii) social interaction skills; (iv) career planning; (v) assistive technology, including optical devices; (vi) independent living skills; (vii) recreation and leisure enjoyment; (viii) self-determination; and (ix) sensory efficiency;
5. Provide for flexibility on the part of school districts to meet the special needs of children with visual impairments through: (A) specialty staff and resources provided by the district; (B) contractual arrangements with other qualified public or private agencies; (C) supportive assistance from regional education service centers or adjacent school districts; (D) short-term or long-term services through the Texas School for the Blind and Visually Impaired or related facilities or programs; or (E) other instructional and service arrangements approved by the agency;
6. Include a statewide admission, review, and dismissal (“ARD”) process;
7. Provide for effective interaction between the visually impaired child's classroom setting and the child's home environment, including providing for parental training and counseling either by school district staff or by representatives of other organizations directly involved in the development and implementation of the IEP for the child;
8. Require the continuing education and professional development of school district staff providing special education services to children with visual impairments;
9. Provide for adequate monitoring and precise evaluation of special education services provided to children with visual impairments through school districts; and
10. Require that school districts providing special education services to children with visual impairments develop procedures for assuring that staff assigned to work with the children have prompt and effective access directly to resources available through: (A) cooperating agencies in the area; (B) the Texas School for the Blind and Visually Impaired; (C) the Central Media Depository for specialized instructional materials and aids made specifically for use by students with visual impairments; (D) sheltered workshops participating in the state program of purchases of blind-made goods and services; and (E) related sources.

Each eligible blind or visually impaired student is entitled to receive educational programs according to an IEP that:

1. Is developed in accordance with federal and state requirements for providing special education services;
2. Is developed by a committee composed as required by federal law;
3. Reflects that the student has been provided a detailed explanation of the various service resources available to the student in the community and throughout the state;
4. Provides a detailed description of the arrangements made to provide the student with the evaluation and instruction; and
5. Sets forth the plans and arrangements made for contacts with and continuing services to the student beyond regular school hours to ensure the student learns the skills and receives the required instruction.

In the development of the IEP for a student with a visual impairment, proficiency in reading and writing is a significant indicator of the student's satisfactory educational progress.

The IEP for a student with a visual impairment must include instruction in braille and the use of braille unless the student's ARD committee determines and documents that braille is not an appropriate literacy medium for the student.

The ARD committee's determination must be based on an evaluation of the student's appropriate literacy media and literacy skills and the student's current and future instructional needs.

Braille instruction may be used in combination with other special education services appropriate to the student's educational needs and shall be provided by a teacher certified to teach students with visual impairments.

Education Code 30.002.

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MANUAL**

**POLICY GROUP 6 - SPECIAL EDUCATION
CHILD FIND DUTY**

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SEC. 1. CHILD FIND

Moody Early Childhood Center shall ensure that all children residing within Moody Early Childhood Center's boundaries who have disabilities, regardless of the severity of their disabilities, and who are in need of special education and related services are identified, located, and evaluated. This requirement applies to all children with disabilities, including:

1. Homeless children;
2. Children who are wards of the state;
3. Children attending private schools;
4. Highly mobile children (including migrant children); and
5. Children who are suspected of being in need of special education but who are advancing from grade to grade.

20 U.S.C. 1412(a)(3)(A); 34 CFR 300.111(a)(1)(i), (c).

SEC. 2. PRIVATE SCHOOL STUDENTS

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

Moody Early Childhood Center shall undertake activities similar to those undertaken for public school children and shall complete the child find process for children enrolled in private schools in a time period comparable to that for other students attending the public schools within Moody Early Childhood Center's boundaries.

20 U.S.C. 1412(a)(10)(A)(ii)-(iv).

SEC. 3. PRESCHOOL STUDENTS

Moody Early Childhood Center shall develop a system to notify residents within Moody Early Childhood Center's boundaries with children who are at least three but younger than six and who are eligible for enrollment in a special education program of the availability of such programs.

Education Code 29.009.

SEC. 4. STUDENT RECORDS

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After each student is enrolled in Moody Early Childhood Center, Moody Early Childhood Center will promptly request all student records from the student's previous school.

**POLICY GROUP 6 - SPECIAL EDUCATION
CHILDREN WHO TRANSFER**

SEC. 1. STUDENTS WHO TRANSFER WITH AN IEP DURING THE SAME SCHOOL YEAR

a. Texas Transfers

When a student transfers to Moody Early Childhood Center from another school within Texas, Moody Early Childhood Center shall provide a free appropriate public education (“FAPE”) to the student. Moody Early Childhood Center shall provide comparable services as those described in the individualized education program (“IEP”) the student transferred with until Moody Early Childhood Center adopts the student’s IEP from the previous school, or develops, adopts, and implements a new IEP.

34 CFR 300.323(e); 19 TAC 89.1050(j)(1).

b. Out-of-State Transfers

If the student with a disability transfers to Moody Early Childhood Center from a school outside of Texas, Moody Early Childhood Center shall provide the student with FAPE, including comparable services, until Moody Early Childhood Center conducts an evaluation and develops, adopts, and implements a new IEP.

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

34 CFR 300.323(f); 19 TAC 89.1050(j)(2).

If a student transfers from Moody Early Childhood Center, Moody Early Childhood Center will furnish the student’s special education records to the student’s new school not later than the 10th working day after the date a request for the information is received by Moody Early Childhood Center.

19 TAC 89.1050(j)(3).

SEC. 2. STUDENTS WHO TRANSFER WITH AN IEP DURING THE SUMMER

A student with a disability who has an IEP in place from a previous in- or out-of-state LEA and who enrolls in a new LEA during the summer is not considered a transfer student for the purposes of 34 CFR 300.323(e) or (f) and corresponding state law and/or regulations.

The new LEA must; (1) implement the IEP from the previous LEA in full on the first day of class of the new school year; or (2) must convene an ARD committee meeting during the summer to revise the student's IEP for implementation on the first day of class of the new school year.

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19 TAC 89.1050(j)(4).

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**POLICY GROUP 6 - SPECIAL EDUCATION
CLOSING THE GAP**

SEC. 1. PREKINDERGARTEN PROGRAMS

The education of students with disabilities can be made more effective by providing incentives for whole-school approaches, scientifically-based early reading programs, positive behavioral interventions and supports, and early intervening services to reduce the need to label students as disabled in order to address the learning and behavioral needs of such students.

20 U.S.C. 1400(c)(5)(F).

In implementing coordinated, early intervening services, Moody Early Childhood Center may carry out activities that include:

1. professional development (which may be provided by entities other than local educational agencies) for teachers and other school staff to enable such personnel to deliver scientifically based academic instruction and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and
2. providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.

20 U.S.C. 1413(f)(2); 34 CFR 300.226(b).

An early intervention service (including a response-to-intervention or (RTI)) process cannot delay the initial evaluation for special education services of a student suspected of having a disability. A parent may request an evaluation at any time to determine whether the student is a student with a disability. If a parent requests an evaluation and Moody Early Childhood Center agrees that the student may be eligible for special education, Moody Early Childhood Center must evaluate the student. If Moody Early Childhood Center denies the parent's request for evaluation, Moody Early Childhood Center shall provide notice to the parent explaining the basis for the refusal. The parent may challenge the refusal to evaluate through the impartial hearing process.

20 U.S.C. 1413(f)(3); 34 CFR 300.226(c).

SEC. 2. BILINGUAL EDUCATION PROGRAM

Moody Early Childhood Center shall identify emergent bilingual students based on state criteria. Moody Early Childhood Center shall provide an appropriate Bilingual Education (BE) or English as a Second Language (ESL) program conducted by teachers certified for such courses.

**POLICY GROUP 6 - SPECIAL EDUCATION
CLOSING THE GAP**

Education Code Chapter 29, Subchapter B; 19 TAC 89.1201-1265; Education Code 29.060(a).

SEC. 3. STUDENT WITH DISABILITIES AND EMERGENT BILINGUAL STUDENTS

Moody Early Childhood Center shall ensure that an emergent bilingual student who also qualifies for special education services as a student with a disability under the Individuals with Disabilities Education Act is not refused services in a bilingual education or English as a second language program solely because the student has a disability.

19 TAC 89.1230.

SEC. 4. APPLICABILITY OF TITLE RELATING TO BILINGUAL EDUCATION

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the Texas Education Code, relating to bilingual education under Subchapter B (Bilingual Education and Special Language Programs), Chapter 29, Texas Education Code.

Education Code 12.104(b)(2)(G).

Moody Early Childhood Center adopts the requirements of Subchapter B (Bilingual Education and Special Language Programs), Chapter 29, Texas Education Code pursuant to Education Code 12.104(b)(2)(G).

SEC. 5. ESTABLISHMENT OF BILINGUAL EDUCATION AND SPECIAL LANGUAGE PROGRAM

Moody Early Childhood Center shall establish a BE or ESL program as required by Education Code Section 29.053 (Establishment of Bilingual Education and Special Language Programs) and in accordance with the procedures established by the Texas Education Agency (“TEA”), unless otherwise excepted under Education Code 29.054 (Exception).

SEC. 6. LANGUAGE PROFICIENCY ASSESSMENT COMMITTEES

Moody Early Childhood Center shall further establish a Language Proficiency Assessment Committee (“LPAC”) that complies with Education Code Section 29.063. The LPAC shall select the appropriate assessment option for each English language learner (ELL) in accordance with this subchapter. For each ELL who receives special education services, the student's admission, review, and dismissal (“ARD”) committee in conjunction with the student’s LPAC shall select the appropriate assessments. The LPAC shall document the decisions and justifications in the student's permanent record file, and the ARD committee shall document the decisions and

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**POLICY GROUP 6 - SPECIAL EDUCATION
CLOSING THE GAP**

justifications in the student's individualized education program. Assessment decisions shall be made on an individual student basis and in accordance with administrative procedures established by the TEA.

19 TAC 101.1005(a).

SEC. 7. PROGRAM CONTENT; METHOD OF INSTRUCTION

Moody Early Childhood Center's bilingual education program's content and instruction shall comply with Education Code Section 29.055.

SEC. 8. ENROLLMENT OF STUDENTS IN PROGRAM

Moody Early Childhood Center shall comply with the TEA criteria for identification, assessment, and classification of emergent bilingual students eligible for entry into the program or exit from the program.

Education Code 29.056(a); 19 TAC 89.1226.

The student's parent must approve a student's entry into the program, exit from the program, or placement in the program. The open-enrollment charter school or parent may appeal the decision under Education Code Section 29.064.

Education Code 29.056(a).

Moody Early Childhood Center, through its LPAC, shall evaluate and consider reenrollment of students who have transferred out of a bilingual education or special language program under Education Code Section 29.056(h) as required by Education Code Section 29.0561.

SEC. 9. FACILITIES; CLASSES

Moody Early Childhood Center shall ensure that bilingual education and special language programs are located in the regular public charter school rather than in separate facilities.

Education Code 29.057.

SEC. 10. ENROLLMENT OF STUDENTS WHO ARE NOT EMERGENT BILINGUAL STUDENTS.

Moody Early Childhood Center ensures that enrollment of students who do not have limited English proficiency may occur only if the requirements of Education Code Section 29.058 are met.

Education Code 29.058.

SEC. 11. COOPERATION AMONG SCHOOLS

Moody Early Childhood Center may cooperate with other schools to provide a bilingual education or special language program.

Education Code 29.059.

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

Each open-enrollment charter school that is required to offer a bilingual education or special language program shall offer a voluntary program for students of limited English proficiency who will be eligible for admission to kindergarten or the first grade at the beginning of the school year. A school that operates on a system permitted by the Texas Education Code other than a semester system shall offer 120 hours of instruction on a schedule the governing board establishes. The program shall meet the requirements of Education Code Section 29.060.

Education Code 29.060(a).

Enrollment of a student in the program is optional with the parent of the student.

Education Code 29.060(b).

The program must be an intensive bilingual education or special language program that meets standards established by the Texas Education Agency. The student/teacher ratio for the program may not exceed 18:1.

Education Code 29.060(c).

Moody Early Childhood Center may establish on a full- or part-time basis summer school, extended day, or extended week bilingual education or special language programs for students of limited English proficiency and may join with other schools or schools in establishing the programs.

Education Code 29.060(d).

The programs required or authorized by Education Code Section 29.060 may not be a substitute for programs required to be provided during the regular school year.

Education Code 29.060(e).

The legislature may appropriate money from the foundation school fund for support of a program under Education Code Section 29.060(a).

Education Code 29.060(f).

SEC. 13. BILINGUAL EDUCATION AND SPECIAL LANGUAGE PROGRAM TEACHERS

Moody Early Childhood Center shall ensure that bilingual education and special language program teachers are properly certified.

Education Code 29.061.

SEC. 14. APPEALS

A parent of a student enrolled in a bilingual education or special language program may appeal to the Commissioner of Education if Moody Early Childhood Center fails to comply with the requirements established by law or by the TEA. If the parent disagrees with the placement of the student in the program, the parent may appeal that decision to the Board. Appeals shall be conducted in accordance with procedures adopted by the Commissioner of Education under Chapter 157 of the Texas Administrative Code.

Education Code 29.064; 19 TAC 89.1240.

SEC. 15. PEIMS REPORTING REQUIREMENTS

Moody Early Childhood Center shall meet Public Education Information Management System Reporting Requirements with respect to its bilingual education or special language programs.

Education Code 29.066.

**POLICY GROUP 6 - SPECIAL EDUCATION
CONSENT AND PRIOR WRITTEN NOTICE**

SEC. 1. CONSENT

Consent means that:

1. 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;
2. The parent understands and agrees in writing to the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and
3. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. A revocation of consent is not retroactive.

If the parent revokes consent in writing for his or her child's receipt of services after the child is initially provided special education and related services, Moody Early Childhood Center is not required to amend the child's education records to remove any references to the child's receipt of services because of the revocation of consent.

34 CFR 300.9.

SEC. 2. LANGUAGE OF NOTICES

The procedural safeguards and prior notices described below must be written in a language understandable to the general public. The notice must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

34 CFR 300.503(c), 300.504(d).

a) Electronic Delivery of Notices

A parent of a child with a disability may elect to receive required notices by electronic mail, if Moody Early Childhood Center makes that option available.

34 CFR 300.505.

SEC. 3. NOTICE OF PROCEDURAL SAFEGUARDS

Moody Early Childhood Center shall provide a copy of the procedural safeguards to parents only once per year, except that a copy also shall be given to the parents:

1. Upon initial referral or parental request for evaluation;

**POLICY GROUP 6 - SPECIAL EDUCATION
CONSENT AND PRIOR WRITTEN NOTICE**

2. Upon receipt of the first state complaint and upon receipt of the first due process complaint in a school year;
3. On the date of a decision to make a disciplinary removal that is a change in placement; and
4. Upon request by a parent.

Moody Early Childhood Center may also place a current copy of the procedural safeguards notice on its Internet website.

a) Contents of Notice

The notice shall include a full explanation of the procedural safeguards relating to:

1. Independent educational evaluations;
2. Prior written notice;
3. Parental consent;
4. Access to educational records;
5. Opportunity to present and resolve complaints through the due process complaint and state complaint procedures, including:
 - a. The time period in which to file a complaint,
 - b. The opportunity for Moody Early Childhood Center to resolve the complaint; and
 - c. The difference between the due process complaint and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures.
6. The availability of mediation;
7. The child's placement during pendency of any due process proceedings;
8. Procedures for children who are subject to placement in an interim alternative educational setting;
9. Requirements for unilateral placement by parents of children in private schools at public expense;
10. Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
11. Civil actions, including the time period in which to file such actions; and
12. Attorneys' fees.

20 U.S.C. 1415(a)-(b), (d); 34 CFR 300.504(c).

SEC. 4. PRIOR WRITTEN NOTICE AND CONSENT

**POLICY GROUP 6 - SPECIAL EDUCATION
CONSENT AND PRIOR WRITTEN NOTICE**

Moody Early Childhood Center shall provide prior written notice to the parents within a reasonable time before the school proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of a child or the provision of a FAPE to the child.

34 CFR 300.503(a).

Notice must be provided to the parent in the parent's native language or other mode of communication at least five school days before Moody Early Childhood Center proposes or refuses the action, unless the parent agrees to a shorter time frame.

19 TAC 89.1050(h).

a) Contents of Notice

The notice must include:

1. A description of the action proposed or refused by Moody Early Childhood Center;
2. An explanation of why Moody Early Childhood Center proposes or refuses to take the action;
3. A description of each evaluation procedure, assessment, record, or report Moody Early Childhood Center used as a basis for the proposed or refused action;
4. A statement that the parents have protection under the procedural safeguards and, if this notice is not an initial referral for evaluation, the means by which a copy of the procedural safeguards can be obtained;
5. Sources for parents to contact to obtain assistance in understanding the Individuals with Disabilities Education Act ("IDEA") rules;
6. A description of other options the admission, review and dismissal ("ARD") committee considered and the reasons why those options were rejected; and
7. A description of other factors relevant to Moody Early Childhood Center's proposal or refusal.

34 CFR 300.503(b).

b) Consent to Initial Evaluation

Before Moody Early Childhood Center conducts an initial evaluation, it shall provide prior written notice, including a description of any evaluation Moody Early Childhood Center proposes to conduct, and obtain informed consent for the evaluation from the parents.

20 U.S.C. 1414(a)(1)(D), (E); 34 CFR 300.304(a).

c) Consent to Services

**POLICY GROUP 6 - SPECIAL EDUCATION
CONSENT AND PRIOR WRITTEN NOTICE**

Moody Early Childhood Center shall seek informed consent from the parent before providing special education and related services to a child.

20 U.S.C. 1414(a)(1)(D).

d) Consent to Reevaluation

Moody Early Childhood Center shall obtain informed parental consent before conducting any reevaluation of a child with a disability, except that such informed parental consent need not be obtained if Moody Early Childhood Center can demonstrate that it has taken reasonable measures to obtain such consent and the parent has failed to respond.

20 U.S.C. 1414(c)(3).

e) Psychological Examinations and Tests

On request of a child's parent, before obtaining the parent's consent under 20 U.S.C. Section 1414 for the administration of any psychological examination or test to the child as part of the evaluation of the child's need for special education, Moody Early Childhood Center shall provide to the child's parent:

1. The name and type of the examination or test; and
2. An explanation of how the examination or test will be used to develop an appropriate Individualized Education Program ("IEP") for the child.

If Moody Early Childhood Center 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, Moody Early Childhood Center shall provide the information above to the parent regarding the additional examination or test and shall obtain additional consent for the examination of test.

Education Code 29.0041(a), (b).

SEC. 5. CONSENT TO EXCUSE MEMBER FROM ATTENDING ARD COMMITTEE MEETING

A Moody Early Childhood Center member of the ARD committee may be excused from attending an individualized education program ("IEP") meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of curriculum or related services if the parent, in writing, and Moody Early Childhood Center consent to the excusal and the member submits, in writing, to the parent and the ARD committee, input into the development of the IEP before the meeting.

SEC. 6. PARENTAL CONSENT TO ACCESS PUBLIC BENEFITS

Moody Early Childhood Center shall obtain informed consent from the parent each time that access to a parent's private insurance proceeds or to public benefits or an insurance program is sought.

34 CFR 300.154(d)(2)(iv)(A).

SEC. 7. PARENTAL CONSENT FOR TRANSFER OF ASSISTIVE TECHNOLOGY DEVICES

Moody Early Childhood Center shall obtain informed consent from the parent or the adult student if the adult student has the legal capacity to enter into a contract before transferring an assistive technology device through a transfer agreement that incorporates the standards of the state.

SEC. 8. OTHER CONSENT REQUIREMENTS

Parental consent is not required before Moody Early Childhood Center may:

1. review existing data as part of the student's evaluation or a reevaluation; or
2. give the student a test or other evaluation that is given to all students unless, before that test or evaluation, consent is required from parents of all students.

34 CFR 300.300(d).

**MOODY EARLY CHILDHOOD CENTER BOARD POLICY
MANUAL**
POLICY GROUP 6 - SPECIAL EDUCATION
COORDINATION OF FUNDS TO PURCHASE INSTRUCTIONAL
MATERIALS

PG-6.10

Instructional materials adopted by Moody Early Childhood Center must be provided to students at no cost.

If Moody Early Childhood Center chooses to coordinate with the National Instructional Materials Access Center (NIMAC) when purchasing print instructional materials, it must acquire the print instructional materials in the same manner and subject to the same conditions as the Texas Education Agency acquires print instructional materials.

If Moody Early Childhood Center chooses not to coordinate with the NIMAC when purchasing print instructional materials, it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner and shall provide assurance of compliance with this policy to the Texas Education Agency.

PART I: DISCIPLINE OF STUDENTS WITH DISABILITIES UNDER SECTION 504

SEC. 1. STUDENTS WITH DISABILITIES UNDER SECTION 504

Moody Early Childhood Center shall conduct an evaluation in accordance with 34 C.F.R. 104.35(b) before taking any action with respect to any significant change in placement of a student with a disability who needs or is believed to need special education and related services. *34 CFR 104.35(a)*.

Moody Early Childhood Center may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student with a disability who is currently engaging in the illegal use of drugs or alcohol to the same extent that Moody Early Childhood Center would take disciplinary action against nondisabled students. The due process procedures afforded under Section 504 do not apply to such disciplinary action. *29 U.S.C. 705(20)(C)(iv)*.

**PART II: DISCIPLINE OF STUDENTS RECEIVING
SPECIAL EDUCATION SERVICES**

SEC. 2. SPECIAL EDUCATION STUDENTS

Except as set forth below, the placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal (“ARD”) committee. Any disciplinary action shall be determined in accordance with federal law and regulations, including those requiring the provision of:

1. functional behavioral assessments (“FBAs”);
2. positive behavioral interventions, strategies, and supports;
3. behavioral intervention plans/behavior improvement plans (“BIPs”); and
4. the manifestation determination review (“MDR”).

Education Code 37.004(b).

SEC. 3. REMOVAL FOR TEN DAYS OR LESS

**POLICY GROUP 6 - SPECIAL EDUCATION
DISCIPLINE OF STUDENTS WITH DISABILITIES**

A student with a disability who violates the Moody Early Childhood Center Student Code of Conduct may be moved from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten consecutive school days, to the extent those alternatives are applied to children without disabilities. *20 U.S.C. 1415(k)(1)(B); 34 C.F.R. 300.530(b)(1).*

Services During Removal for Ten Days or Less. Moody Early Childhood Center is required to provide services during the period of removal if Moody Early Childhood Center provides services to a child without disabilities who is similarly removed. *34 C.F.R. 300.530(d).*

SEC. 4. SUBSEQUENT REMOVALS OF TEN DAYS OR LESS

Moody Early Childhood Center personnel may remove the student for additional removals of not more than ten consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change in placement under 34 CFR 300.536. *34 C.F.R. 300.530(b)(1).*

Services During Subsequent Removals of Ten Days or Less. After a student has been removed from his or her current placement for ten school days in the same school year, during any subsequent removal of ten consecutive school days or less, school personnel, in consultation with at least one of the student's teachers, shall determine the extent to which services are needed so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's individualized education program ("IEP"). *20 U.S.C. 1415(k)(1)(D); 34 C.F.R. 300.530(d)(4).*

SEC. 5. NOTICE OF PROCEDURAL SAFEGUARDS

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

SEC. 6. CHANGES IN PLACEMENT

Any disciplinary action that would constitute a change in placement may be taken only after the student's ARD committee conducts a manifestation determination review ("MDR")

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

**POLICY GROUP 6 - SPECIAL EDUCATION
DISCIPLINE OF STUDENTS WITH DISABILITIES**

1. Removed from the student's current educational placement for more than ten consecutive school days; or
2. Subjected to a series of removals that constitute a pattern because:
 - a. The series of removals total more than ten school days in a school year;
 - b. The student's behavior is substantially similar to the student's behavior in the previous incidents that resulted in the series of removals; and
 - c. Additional factors exist, such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

Moody Early Childhood Center determines, on a case-by-case basis, whether a pattern of removals constitutes a change in placement. Moody Early Childhood Center's determination is subject to review through due process and judicial proceedings. *34 C.F.R. 300.536*.

Moody Early Childhood Center personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a student who violates the Student Code of Conduct. *20 U.S.C. 1415(k)(1)(A)*.

SEC. 7. MANIFESTATION DETERMINATION

Within ten school days of any decision to change the placement of a student because of a violation of the Student Code of Conduct, Moody Early Childhood Center, parents, and relevant members of the ARD committee (as determined by the parent and Moody Early Childhood Center) 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 Moody Early Childhood Center's failure to implement the IEP.

If Moody Early Childhood Center, the parent, and relevant members of the ARD committee determine that either of the above is applicable, the conduct shall be determined to be a manifestation of the student's disability.

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

a) Not a Manifestation

If the determination is that the student's behavior was not a manifestation of the student's disability, school personnel may apply the relevant disciplinary procedures to the student in the same manner and for the same duration as for students without disabilities. The ARD committee shall determine the interim alternative educational setting. *20 U.S.C. 1415(k)(1)(C), (k)(2); 34 C.F.R. 300.530(c)*.

**POLICY GROUP 6 - SPECIAL EDUCATION
DISCIPLINE OF STUDENTS WITH DISABILITIES**

i. Services During Removal

The student must:

1. Continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the student's IEP.
2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

These services may be provided in an interim alternative educational setting. *34 C.F.R. 300.530(d)(1)–(2).*

*b) **Manifestation***

If Moody Early Childhood Center, the parents, and relevant members of the ARD committee determine that the conduct was a manifestation of the student's disability, the ARD committee shall:

1. Conduct a functional behavioral assessment ("FBA"), unless Moody Early Childhood Center had conducted an FBA before the behavior that resulted in the change in placement occurred, and implement a behavioral intervention plan ("BIP") for the student; or
2. If a BIP has already been developed, review the BIP and modify it, as necessary, to address the behavior.

Except as provided at SPECIAL CIRCUMSTANCES below, the ARD committee shall return the student to the placement from which the student was removed, unless the parent, and Moody Early Childhood Center agree to a change in placement as part of the modification of the BIP.

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

i. Special Circumstances

Moody Early Childhood Center 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:

**POLICY GROUP 6 - SPECIAL EDUCATION
DISCIPLINE OF STUDENTS WITH DISABILITIES**

1. Carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of Texas Education Agency (the “TEA”) or Moody Early Childhood Center; or
2. Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of the TEA or Moody Early Childhood Center;
3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the TEA or Moody Early Childhood Center.

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

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

c) Services During Removal

The student must:

1. Continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the student’s IEP.
2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

These services may be provided in an interim alternative educational setting.

34 C.F.R. 300.530(d)(1).

SEC. 8. APPEALS

A parent who disagrees with a placement decision or the manifestation determination may request a hearing. Additionally, Moody Early Childhood Center may request a hearing if it believes that maintaining a current placement of a student is substantially likely to result in injury to the student or others.

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

**POLICY GROUP 6 - SPECIAL EDUCATION
DISCIPLINE OF STUDENTS WITH DISABILITIES**

a) Placement During Appeals

When an appeal has been requested by a parent or Moody Early Childhood Center, 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 Moody Early Childhood Center agree otherwise.

20 U.S.C. 1415(k)(4); 34 C.F.R. 300.533.

SEC. 9. REPORTING CRIMES

Federal law does not prohibit Moody Early Childhood Center from reporting a crime committed by a student with a disability to appropriate authorities. If Moody Early Childhood Center reports a crime, Moody Early Childhood Center shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom Moody Early Childhood Center reported the crime. Moody Early Childhood Center may transmit records only to the extent permitted by the Family Educational Rights and Privacy Act ("FERPA").

20 U.S.C. 1415(k)(6); 34 C.F.R. 300.535.

SEC. 10. STUDENTS NOT YET IDENTIFIED

A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated the Student Code of Conduct may assert any of the protections provided for in the Individuals with Disabilities Education Act if Moody Early Childhood Center had knowledge that the student had a disability before the behavior that precipitated that disciplinary action occurred. *20 U.S.C. 1415(k)(5)(A); 34 C.F.R. 300.534(a).*

a) School Knowledge

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

1. The parent of the student expressed concern in writing to Moody Early Childhood Center supervisory or administrative personnel, or to the teacher of the student, that the student was in need of special education and related services;
2. The parent requested an evaluation of the student for special education and related services; or

**POLICY GROUP 6 - SPECIAL EDUCATION
DISCIPLINE OF STUDENTS WITH DISABILITIES**

3. The student's teacher, or other Moody Early Childhood Center personnel, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the special education director or to other Moody Early Childhood Center supervisory personnel.

20 U.S.C. 1415(k)(5)(B); 34 C.F.R. 300.534(b).

b) Exception

Moody Early Childhood Center shall not be deemed to have knowledge that the student had a disability if:

1. The parent has not allowed an evaluation of the student;
2. The parent has refused services; or
3. The student has been evaluated and it was determined that the student did not have a disability.

20 U.S.C. 1415(k)(5)(C); 34 C.F.R. 300.534(c).

If Moody Early Childhood Center does not have knowledge, before taking disciplinary measures, that a student has a disability, the student may be subjected to the same disciplinary measures applied to students without disabilities who engaged in comparable behaviors.

However, if a request is made for an evaluation during the time period in which the student is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

20 U.S.C. 1415(k)(5)(D); 34 C.F.R. 300.534(d).

**POLICY GROUP 6 - SPECIAL EDUCATION
DISTRICT AND CAMPUS IMPROVEMENT PLANS**

It is the policy of Moody Early Childhood Center to annually conduct a comprehensive needs assessment and to conduct district and campus improvement plans, if required by state and federal funding requirements.

SEC. 1. DYSLEXIA AND RELATED DISORDERS

The Board shall ensure that procedures for identifying and providing appropriate instructional services to students for dyslexia and related disorders are implemented by Moody Early Childhood Center. These procedures shall be implemented in accordance with the most recently updated version of the State Board of Education's *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders (Dyslexia Handbook)*.

SEC. 2. PARENTAL NOTIFICATIONS AND CONSENT

Anytime a child is suspected to have dyslexia or a related disorder and may need dyslexia intervention services, the LEA must seek parental consent for a Full Individual Initial Evaluation (FIIE) under the IDEA. The process of seeking informed parental consent under the IDEA must include proper prior written notice and be accompanied by the notice of procedural safeguards.

Moody Early Childhood Center shall provide to parents of children suspected to have dyslexia or a related disorder a copy of or link to the electronic version of the most recently updated version of the State Board of Education's *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders (Dyslexia Handbook)*.

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

Sec 3. IDENTIFICATION AND TESTING

A process for early identification, intervention, and support for students at risk for dyslexia and related disorders must be available, as outlined in the *Dyslexia Handbook*. The program must include a screening at the end of each school year for all kindergarten students and by January 31st for first grade students.

Moody Early Childhood Center may not use early intervention strategies, including multi-tiered systems of support, to delay or deny the provision of a full and individual evaluation to a child suspected of having a specific learning disability, including dyslexia or a related disorder.

SEC 4. PERSONNEL QUALIFICATIONS

Highly trained individuals must deliver dyslexia instruction. Teachers who provide dyslexia intervention for students are not required to hold a specific license or certification. However, these educators must at a minimum have additional documented dyslexia training aligned to 19 TAC §74.28(c) and must deliver the instruction with fidelity. A provider of dyslexia instruction does not have to be certified as a special educator when serving a student who also receives

special education and related services if that provider is the most appropriate person to offer dyslexia instruction.

SEC. 5. TREATMENT AND SERVICES

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

a) Reading Program

Moody Early Childhood Center shall purchase a reading program or develop its own reading program for students with dyslexia and related disorders that is aligned with the descriptors found in the *Dyslexia Handbook*.

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

b) Reassessment

Unless otherwise provided by law, a student determined to have dyslexia during testing or accommodated because of dyslexia may not be retested for dyslexia for the purpose of reassessing the student's need for accommodations until Moody Early Childhood Center reevaluates the information obtained from previous testing of the student.

SEC 6. PARENT EDUCATION PROGRAM

Moody Early Childhood Center shall develop and provide a parent education program for parents and guardians of students with dyslexia and related disorders. This program should include:

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

Education Code 38.003; 19 TAC 74.28.

Sec. 7. REPORTING

Moody Early Childhood Center must report through the Public Education Information Management System to the Texas Education Agency the number of students enrolled who are identified as having dyslexia.

**POLICY GROUP 6 - SPECIAL EDUCATION
ELIGIBILITY CRITERIA**

SEC. 1. ELIGIBILITY CRITERIA

A student that is at least three years old but not more than 21 years of age may be eligible for special education services if the student is found to have a disability in one of the following categories, and, by reason of the disability, has need for special education and related services:

1. Autism
2. Deaf-blindness
3. Deaf or hard of hearing
4. Emotional disturbance
5. Intellectual disability
6. Multiple disabilities
7. Orthopedic impairment
8. Other health impairment
9. Specific learning disability
10. Speech impairment
11. Traumatic brain injury
12. Visual impairment
13. Noncategorical

34 CFR 300.306(a)(5), 300.8; 19 TAC 89.1040(a).

Additionally, a student is eligible to participate in Moody Early Childhood Center's special education program if the student is not more than 21 years of age and has a visual or auditory impairment that prevents the student from being adequately or safely educated in public school without the provision of special services.

Education Code 29.003.

SEC. 2. DETERMINING ELIGIBILITY

Following the completion of the full and individual initial evaluation, the student's admission, review, and dismissal ("ARD") committee must make an eligibility determination. The ARD committee members reviewing evaluations and data to determine eligibility must include a licensed specialist in school psychology ("LSSP"), an educational diagnostician, or other appropriately certified or licensed practitioner with experience, and a licensed or certified professional for a specific eligibility category defined below.

19 TAC 89.1040(b).

When interpreting evaluation data for the purpose of determining if a student is a student with a disability under 34 CFR 300.8 and the educational needs of the student, Moody Early Childhood Center shall:

**POLICY GROUP 6 - SPECIAL EDUCATION
ELIGIBILITY CRITERIA**

1. Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and
2. Ensure that information obtained from all of these sources is documented and carefully considered.

If a student is determined to be a student with a disability and needs special education and related services, the ARD committee must develop an individualized education program ("IEP") for the student in accordance with 34 CFR 300.320 through 300.324 and corresponding state law.

34 CFR 300.306.

A student must not be determined to be a child with a disability if:

1. The determinant factor for that determination is:
 - a. lack of appropriate instruction in reading, including in the essential components of reading instruction;
 - b. lack of appropriate instruction in math; or
 - c. limited English proficiency/status as an emergent bilingual student; or
2. The child does not otherwise meet the eligibility criteria and 34 CFR 300.8(a).

34 CFR 300.306(b).

For children aged three through nine, or any subset of that age range, may be a child with a disability if the student is:

1. experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: Physical development, cognitive development, communication development, social or emotional development, or adaptive development; and
2. needs special education and related services.

34 CFR 300.8(b).

SEC. 3. AUTISM

A student with autism is one that meets the criteria outlined in 34 CFR 300.8(c)(1) of the IDEA. It also includes students with pervasive developmental disorders.

19 TAC 89.1040(c)(1).

Under IDEA, autism is a developmental disability significantly affecting a student's verbal and nonverbal communication and social interactions that adversely affects a student's educational

**POLICY GROUP 6 - SPECIAL EDUCATION
ELIGIBILITY CRITERIA**

performance. Engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences are often associated with autism. Characteristics of autism are generally evident before age three. A child who manifests the characteristics of autism after age three could be identified as having autism if the student meets the above criteria also defined in 34 CFR 300.8(c)(1)(i).

A student does not meet the eligibility category for autism if a student's educational performance is adversely affected primarily because the student has an emotional disturbance, as defined above and in 34 CFR 300.8(c)(4).

34 CFR 300.8(c)(1).

The written evaluation determining eligibility under autism must include recommendations for behavior interventions.

19 TAC 89.1040(c)(1).

SEC. 4. DEAF-BLINDNESS

A student is eligible under deaf-blindness if identified with hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for students with deafness or students with blindness.

34 CFR 300.8(c)(2).

In addition to the Individuals with Disabilities Education Act ("IDEA") requirements, a student may be eligible if a student is found to:

1. meet the eligibility criteria for auditory impairment specified in subsection 19 TAC 89.1040(c)(3) and visual impairment specified in subsection 19 TAC 89.1040 (c)(12);
2. meet the eligibility criteria for a student with a visual impairment and has a suspected hearing loss that cannot be demonstrated conclusively, but a speech/language therapist, a certified speech and language therapist, or a licensed speech language pathologist indicates there is no speech at an age when speech would normally be expected;
3. have documented hearing and visual losses that, if considered individually, may not meet the requirements for auditory impairment or visual impairment, but the combination of such losses adversely affects the student's educational performance; or
4. have a documented medical diagnosis of a progressive medical condition that will result in concomitant hearing and visual losses that, without special education intervention, will adversely affect the student's educational performance.

19 TAC 89.1040(c)(2).

SEC. 5. DEAF OR HARD OF HEARING

A student who is deaf or hard of hearing is one who has been determined to meet the criteria for deafness as stated in 34 CFR 300.8(c)(3), or for students who are deaf or hard of hearing as defined in 34 CFR 300.8(c)(5).

The student's evaluation must include an otological examination performed by an otologist or by a licensed medical doctor, with documentation that an otologist is not reasonably available. Moody Early Childhood Center shall also conduct an audiological evaluation by a licensed audiologist. The evaluation must include a description of the implications of the hearing loss for the student's hearing in a variety of circumstances with or without recommended amplification.

34 CFR 300.8(c)(3),(5); 19 TAC 89.1040(c)(3).

SEC. 6. EMOTIONAL DISTURBANCE

A student may be eligible for services as a student with an emotional disturbance if they exhibit one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

1. An inability to learn that cannot be explained by intellectual, sensory, or health factors;
2. An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
3. Inappropriate types of behavior or feelings under normal circumstances;
4. A general pervasive mood of unhappiness or depression; or
5. A tendency to develop physical symptoms or fears associated with personal or school problems.

Emotional disturbance includes schizophrenia, but does not include children who are socially maladjusted, unless it is determined that they have an emotional disturbance. A written evaluation must include recommendations for behavior intervention strategies.

34 CFR 300.8(c)(4); 19 TAC 89.1040(c)(4).

SEC. 7. INTELLECTUAL DISABILITY

A student qualifies as a student with an intellectual disability if the student has significantly sub-average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a student's educational performance.

34 CFR 300.8(c)(6); 19 TAC 89.1040(c)(5).

**POLICY GROUP 6 - SPECIAL EDUCATION
ELIGIBILITY CRITERIA**

SEC. 8. MULTIPLE DISABILITY

A student may qualify as a student with multiple disabilities if they are identified to have a combination of impairments (such as intellectual disability-blindness or intellectual disability-orthopedic impairment) and the combination causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.

34 CFR 300.8(c)(7).

The impairments must be: (a) expected to continue indefinitely; and (b) severely limit performance in two or more of the following:

1. psychomotor skills;
2. self-care skills;
3. communication;
4. social and emotional development, or
5. cognition.

A student who qualifies for more than one impairment, but does not severely impair performance in one of the above categories, or is not expected to continue indefinitely, does not qualify as a student with multiple disabilities.

19 TAC 89.1040(c)(6).

SEC. 9. ORTHOPEDIC IMPAIRMENT

A severe orthopedic impairment, including impairments caused by congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures). If the impairment adversely impacts a student's educational performance, the student is eligible under this category.

34 CFR 300.8(c)(8); 19 TAC 89.1040(c)(7).

The multidisciplinary team determining eligibility under the criteria for an orthopedic impairment must include a licensed physician.

19 TAC 89.1040(c)(7).

SEC. 10. OTHER HEALTH IMPAIRMENT (“OHI”)

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A student with OHI is one who has been determined to meet the criteria for OHI due to chronic or acute health problems.

19 TAC 89.1040(c)(8).

OHI means having limited strength, vitality, or alertness that adversely affects a child's educational performance.

34 CFR 300.8(c)(9)(i).

The term "health problems" includes:

1. Asthma;
2. Attention Deficit Disorder or Attention Deficit Hyperactivity Disorder;
3. Diabetes;
4. Epilepsy;
5. Heart Condition;
6. Hemophilia;
7. Lead poisoning;
8. Leukemia;
9. Nephritis;
10. Rheumatic Fever;
11. Sickle Cell Anemia; or
12. Tourette Syndrome.

19 TAC 89.1040(c)(8); 34 CFR 300.(c)(9)(i).

"Limited alertness" includes a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment.

34 CFR 300.8(c)(9).

In determining eligibility, Moody Early Childhood Center shall include a licensed physician on the multidisciplinary team.

19 TAC 89.1040(c)(8).

SEC. 11. SPECIFIC LEARNING DISABILITY

Specific learning disability (or "SLD") includes a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that

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may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations.

SLD includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

A specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

34 CFR 300.8(c)(10); 19 TAC 89.1040(c)(9).

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

1. does not make sufficient progress when provided a process based on the student's response to scientific, research-based intervention (as defined in 20 USC, §7801(37)), as indicated by the student's performance relative to the performance of the student's peers on repeated, curriculum-based assessments of achievement at reasonable intervals, reflecting student progress during classroom instruction; or
2. the student exhibits a pattern of strengths and weaknesses in performance, achievement, or both relative to age, grade-level standards, or intellectual ability, as indicated by significant variance among specific areas of cognitive function, such as working memory and verbal comprehension, or between specific areas of cognitive function and academic achievement.

19 TAC 89.1040(c)(9).

Prior to identifying a student as one with a learning disability, Moody Early Childhood Center shall ensure that the suspected disability is not due to lack of educational opportunity or lack of appropriate instruction. Moody Early Childhood Center shall consider data that shows the student has received appropriate instruction in math and reading in the general education setting. Moody Early Childhood Center shall also consider documentation of repeated assessments of

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achievement at reasonable intervals, reflecting formal evaluation of student progress during instruction. This may include, but is not limited to, RTI progress results, in-class tests on grade-level curriculum, or other regularly administered assessments. Intervals are considered reasonable if consistent with the assessment requirements of a student's specific instructional program.

19 TAC 89.1040(c)(9).

For more information related to SLD and dyslexia, see PG.-2.27.

SEC. 12. SPEECH IMPAIRMENT

A communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance. The evaluation team shall include a certified speech and hearing therapist, a certified speech and language therapist, or a licensed speech/language pathologist.

34 CFR 300.8(c)(11); 19 TAC 89.1040(c)(10).

SEC. 13. TRAUMATIC BRAIN INJURY

An acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

Moody Early Childhood Center shall include a licensed physician, and a licensed specialist in school psychology (LSSP), an educational diagnostician, or other appropriately certified or licensed practitioner with experience and training in this area to review the data and determine eligibility.

19 TAC 89.1040(c)(11).

SEC. 14. VISUAL IMPAIRMENT

A child with a visual impairment is one who has been determined to meet the criterial for visual impairment.

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34 CFR 300.8(c)(13); 19 TAC 89.1040(c)(12).

The term “visual impairment including blindness” means an impairment in vision that, even with correction, adversely affects the student’s educational performance, and includes both partial sight and blindness.

34 CFR 300.8(c)(13).

Evaluation, eligibility, and ARD committee requirements shall adhere to federal and state law.

34 CFR 300.8(c)(13); Education Code 30.002(c-1); 19 TAC 89.1040(c)(12).

SEC. 15. NONCATEGORICAL

A student between the ages of 3-5 who is evaluated as having an intellectual disability, an emotional disturbance, a specific learning disability, or autism may be described as noncategorical early childhood.

19 TAC 89.1040(c)(13).

SEC. 1. REFERRAL FOR FULL AND INDIVIDUAL INITIAL EVALUATION

Referral of students for a full and individual initial evaluation for possible special education services shall be a part of Moody Early Childhood Center’s overall general education referral or screening system. Either a parent, the Texas Educational Agency (“TEA”), another state agency, or Moody Early Childhood Center may initiate a request for an initial evaluation.

a) Obligation to Refer

Before referral, students experiencing difficulty in the general classroom should be considered for all support services available to all students. If a student continues to experience difficulty in the general classroom after the provision of interventions, Moody Early Childhood Center personnel must refer the student for a full and individual initial evaluation.

20 U.S.C. 1414(a)(1); 34 CFR 300.301; 19 TAC 89.1011.

b) Parent Request

If a parent submits a written request for a full individual and initial evaluation of a student, Moody Early Childhood Center shall, not later than the 15th school day after the date Moody Early Childhood Center receives the request:

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

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

SEC. 2. NOTICE OF RIGHTS

Moody Early Childhood Center shall provide written notice to a student’s parent or guardian within a reasonable time before proposing or refusing to initiate the identification, evaluation, or educational placement of a student or the provision of a free appropriate public education (“FAPE”).

34 CFR §300.8(c)(10)

**POLICY GROUP 6 - SPECIAL EDUCATION
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SEC. 3. INITIAL EVALUATION

Moody Early Childhood Center 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)*.

Moody Early Childhood Center shall ensure that evaluations of children who transfer from one district to another in the same academic year are coordinated with the children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations. *20 U.S.C. 1414(b)(3)(D)*.

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

a) Consent for Initial Evaluation

Moody Early Childhood Center shall make reasonable efforts to obtain informed parental consent before conducting an initial evaluation.

If the parent does not provide consent for an initial evaluation or fails to respond to a request to provide consent, Moody Early Childhood Center may—but is not required to—pursue the initial evaluation by utilizing due process procedures, except to the extent inconsistent with state law relating to such parental consent.

Parental consent to initial evaluation shall not be construed as consent for placement for special education and related services. *20 U.S.C. 1414(a)(1)(D)(i)(1); 34 CFR 300.300*.

b) Wards of the State

If the child is a ward of the state and is not residing with the child's parent, Moody Early Childhood Center shall make reasonable efforts to obtain the informed consent from the parent for an initial evaluation, unless:

1. Moody Early Childhood Center cannot discover the whereabouts of the parent, despite reasonable efforts to do so;
2. The rights of the parent have been terminated; or
3. The rights of the parent to make educational decisions have been subrogated and an individual appointed by a judge to represent the student has given consent for an initial evaluation.

20 U.S.C. 1414(a)(1)(D)(iii); 34 CFR 300.300(a)(2).

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SEC. 4. PROVIDING ASSISTANCE TO STUDENTS WHO HAVE LEARNING DIFFICULTIES OR NEED SPECIAL EDUCATION SERVICES

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

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

If consent for evaluation is obtained, Moody Early Childhood Center must generally complete the evaluation and report within 45 school days of the date Moody Early Childhood Center receives the written consent. Moody Early Childhood Center must give a copy of the evaluation report to the parent.

SEC. 5. NOTIFICATION TO PARENTS REGARDING INTERVENTION STRATEGIES

Each school year, Moody Early Childhood Center shall notify a parent of each child, other than a child enrolled in a special education program, who receives assistance from the Moody Early Childhood Center for learning difficulties, including through the use of intervention strategies that Moody Early Childhood Center provides to the child. The notice must:

1. Be provided when the child begins to receive the assistance for that school year;
2. Be written in English or, to the extent practicable, the parent’s native language; and
3. Include:
 - a. A reasonable description of the assistance that may be provided to the child, including any intervention strategies that may be used;

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- b. Information collected regarding any intervention in the base tier of a multi-tiered system of supports that has previously been used with the child;
- c. An estimate of the duration for which the assistance, including through the use of intervention strategies, will be provided;
- d. The estimated time frames within which a report on the child's progress with the assistance, including any intervention strategies used, will be provided to the parent; and
- e. A copy of a written explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education. The explanation must state that a parent is entitled at any time to request an evaluation of the parent's child for special education services or for aids, accommodations, or services under Section 504 of the Rehabilitation Act ("Section 504").

The notice under this policy may be provided to a child's parent at a Section 504 meeting.

A parent is entitled to access to all written records of Moody Early Childhood Center concerning the parent's child, including attendance records, test scores, grades, disciplinary records, counseling records, psychological records, applications for admission, health and immunization information, teacher and school counselor evaluations, reports of behavioral progress, and records relating to assistance provided for learning difficulties, including information collected regarding any intervention strategies used with the child.

SEC. 1. FULL AND INDIVIDUAL EVALUATION (FIE)

Moody Early Childhood Center shall ensure that upon completion of the administration of such tests and other evaluation materials administered according to the evaluation procedures of the Individuals with Disabilities Education Act (“IDEA”), and preparation of the written report, the admission, review and dismissal (“ARD”) committee determines if the student is a student with a disability under state and federal standards.

Moody Early Childhood Center shall conduct a full and individual initial evaluation (“FIE”) prior to providing special education and related services to any student. All students must be evaluated in accordance with the IDEA and the Texas Education Code.

Moody Early Childhood Center shall have procedures in place to ensure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of students with disabilities are selected and administered so as to not be racially, culturally, or gender discriminatory. Assessment and procedures shall be provided and administered in the student’s native language or most proficient mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so.

34 CFR 300.301; Education Code 29.310.

All implementing assessment procedures must differentiate between language proficiency and handicapping condition. Additionally, placement procedures must ensure that placement in a bilingual education or English as a second language program is not refused solely because the student has a disability.

19 TAC 89.1230.

No single procedure shall be the sole criterion for determining whether a student is a student with a disability or for determining an appropriate education program for a student with a disability. The evaluation must be sufficiently comprehensive to identify all of the student’s special education and related services’ needs. Each student must be evaluated in all suspected areas of disability.

34 CFR 300.301,300.304; Education Code 29.310.

All assessments must be administered in accordance with the instructions provided and by a trained and knowledgeable person.

34 CFR 300.301, 300.304.

SEC. 2. TIMELINE

If a student's parent provides a written request for an evaluation to the school's director of special education services or to a district administrative employee, Moody Early Childhood Center shall, within 15 school days, (1) provide the parent with prior written notice of its proposal to conduct an evaluation, a copy of the procedural safeguards, and an opportunity to give written consent for the evaluation, or (2) provide prior written notice and procedural safeguards if the school is denying the request for evaluation.

Education Code 29.004(c).

A written FIE report must be completed not later than the 45th school day following the date on which Moody Early Childhood Center receives written consent for the evaluation, signed by the student's parent. If the student is absent for more than three days in that time period, the timeline must be extended by the number of days the student was absent.

Education Code 29.004(a).

This time frame shall not apply if:

1. A student enrolls in the current school after the relevant time frame has begun and before the previous school made a determination as to whether the student has a disability, but only if the current school is making sufficient progress to ensure a prompt completion of the evaluation and the parent and current school agree to a specific time for completion of the evaluation; or
2. The parent repeatedly fails or refuses to produce the student for the evaluation.

34 CFR 300.301(d).

Following the completion of the FIE, the ARD committee must meet within 30 calendar days from the date of completion to review and determine eligibility.

Education Code 29.004.

If the 30th day falls during the summer and school is not in session, the student's ARD committee has until the first day of classes in the fall to finalize decisions concerning the student's initial eligibility determination, individualized education program ("IEP"), and placement, unless the full individual and initial evaluation indicates that the student will need extended school year services during that summer.

If the student is an English language learner, the language proficiency assessment committee (LPAC) must also attend the meeting to determine services. (19 TAC §89.1050(c)(J))

If Moody Early Childhood Center receives written consent for an FIE from a student's parent at least 35 but less than 45 school days before the last instructional day of the school year, the evaluation must be completed and the written report of the evaluation must be provided to the parent not later than June 30 of that year. The ARD committee must meet by the 15th school day of the following school year to consider the evaluation.

If Moody Early Childhood Center receives written consent signed by a student's parent less than 35 school days before the last instructional day of the school year or if the school receives the written consent at least 35 but less than 45 school days before the last instructional day of the school year but the student is absent from school during that period on three or more days, the FIE must be completed not later than the 45th school day after receiving consent.

School days do not include days following the last instructional day of the spring term and before the first day of the fall term.

Education Code 29.004.

SEC. 3. SPECIFIC LEARNING DISABILITY EVALUATION

The Texas Education Agency cannot require Moody Early Childhood Center to use the severe discrepancy between intellectual ability and achievement for determining whether a student has a specific learning disability. TEA must permit the use of a process based on the child's response to scientific, research-based intervention; and may permit the use of other alternative research-based procedures for determining whether a student has a specific learning disability.

34 CFR 300.307.

The evaluation process for specific learning disability includes an observation of the child in the learning environment, including the regular classroom setting, to document academic performance and behavior in the areas of difficulty.

34 CFR 300.310 (a).

SEC. 4. FUNCTIONAL BEHAVIOR ASSESSMENT (FBA)

A functional behavior assessment ("FBA") may be necessary for a student whose behavior impedes their education. Prior to completing an FBA, Moody Early Childhood Center shall get consent from the parent.

34 CFR 300.9.

If an ARD committee determines a change of placement is necessary due to the student's behavior, it must conduct an FBA and implement a behavioral intervention plan ("BIP"). If an FBA was already completed, the ARD committee must review and update the BIP.

34 CFR 300.350(f).

SEC. 5. REVIEW OF EXISTING EVALUATION DATA

A Review of Existing Evaluation Data ("REED") is required as part of an initial evaluation, if appropriate, and as part of any reevaluation. The REED must be conducted by the ARD committee members and other qualified professionals, as appropriate. The ARD committee members may conduct the review without a meeting.

The REED must include a review of the following:

- Evaluations and information provided by the parents of the student;
- Current classroom-based, local, or State assessments, and classroom-based observations; and
- Observations by teachers and related services providers.

On the basis of that review, and input from the student's parents, the ARD committee members must identify what additional data, if any, are needed to determine:

- Whether the student is a student with a disability, and the educational needs of the student, or, in case of a reevaluation of a student, whether the student continues to have such a disability and the educational needs of the student;
- Whether the student needs special education and related services, or in the case of a reevaluation of a student, whether the student continues to need special education and related services;
- The present levels of academic achievement and related developmental needs of the student; and
- Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student and to participate, as appropriate, in the general education curriculum.

Moody Early Childhood Center shall administer any assessments or other evaluation measures needed to produce the data identified by the REED in accordance with applicable procedural requirements regarding notice and consent.

If additional data is not needed, the ARD committee must notify the parent of the determination decision and provide information about the parent's right to request additional assessments to determine student needs and eligibility.

34 CFR 300.305.

Moody Early Childhood Center shall conduct a reevaluation of the student if the school determines that the educational or related service needs, including improved academic achievement and functional performance, of the child warrant a reevaluation or if the child's parent or teacher requests a reevaluation. A reevaluation may not occur more than once per year, unless agreed to by the school and the parent. A reevaluation must occur at least every three years, unless the school and parent agree the evaluation is unnecessary.

34 CFR 300.303.

SEC. 6. CHANGE IN ELIGIBILITY

Moody Early Childhood Center shall evaluate a student with a disability before determining a student is no longer eligible for special education and related services.

An evaluation is not required if a student is no longer eligible due to graduation or exceeding the age eligibility in Texas. Moody Early Childhood Center shall create a summary of performance and include recommendations on how to assist the student in meeting postsecondary goals.

34 CFR 300.305(e).

SEC. 7. CONSIDERATION OF SERVICES PROVIDED IN REGULAR EDUCATION SETTING

To ensure that underachievement in the student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group of qualified professionals, as part of a full and individual evaluation, must consider:

- Data that demonstrate that prior to, or as part of, the referral process, the student was provided appropriate instruction in regular education settings, delivered by qualified personnel; and

- Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of progress during instruction, which was provided to the student's parents.

34 CFR 300.309(b).

SEC. 8. COORDINATION OF EVALUATIONS WITH PRIOR AND SUBSEQUENT SCHOOLS

The school shall ensure that evaluations of students who transfer from one local education agency to another in the same academic year are coordinated with the student's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations.

20 U.S.C. 1414(b)(3)(D).

SEC. 9. PSYCHOLOGICAL EXAMINATIONS AND TESTS

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

1. The name and type of the examination or test; and
2. An explanation of how the examination or test will be used to develop an appropriate IEP for the child.

If Moody Early Childhood Center determines that an additional examination or test is required for the evaluation of a child's need for special education, Moody Early Childhood Center shall provide the information above to the parent regarding the additional examination or test and shall obtain additional consent for the examination of test.

Education Code 29.0041(a), (b).

If Moody Early Childhood Center determines that an additional examination or test is required for the evaluation, Moody Early Childhood Center shall provide the information required by Education Code 29.0041(a) and shall obtain parental consent. If a parent does not give consent within 20 calendar days after the School provides the information, the parent's consent is considered denied.

The time required for Moody Early Childhood Center to provide information and seek consent may not be counted toward the timeframe for completion of an evaluation.

Education Code 29.0041.

SEC. 10. EXTENSION OF TIMELINES

For a specific learning disability, the timelines for evaluation under this policy may be extended by mutual written agreement of the student's parents and the ARD committee.

34 CFR 300.309(c).

SEC. 11. EVALUATION CONDUCTED PURSUANT TO A SPECIAL EDUCATION DUE PROCESS HEARING

A special education hearing officer in an impartial due process hearing brought under 20 U.S.C. §1415 may issue an order or decision that authorizes one or more evaluations of a student who is eligible for, or who is suspected as being eligible for, special education services. Such an order or decision authorizes the evaluation of the student without parental consent as if it were a court order for purposes of any State or federal law providing for consent by order of a court.

Education Code 29.016.

SEC. 12. INDEPENDENT EDUCATIONAL EVALUATIONS

The parent of a student with a disability has the right to obtain an independent educational evaluation ("IEE") of the parent's child if the parent disagrees with the evaluation of the student that was obtained by Moody Early Childhood Center.

If the parent requests an IEE, Moody Early Childhood Center must provide the parent with information about where the parent may obtain an IEE and about Moody Early Childhood Center's criteria that apply to IEE.

SEC. 13. DEFINITIONS

An IEE means an evaluation conducted by a qualified examiner who is not employed by the school responsible for the education of a student.

Public expense means that Moody Early Childhood Center either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with the provisions of Part B of IDEA, which allow each State to use whatever State, local, Federal, and private sources of support are available in the State to meet the requirements of Part B of IDEA.

34 CFR 300.502.

SEC. 14. RIGHT TO AN INDEPENDENT EVALUATION AT PUBLIC EXPENSE

The parent has the right to request an IEE of the parent's child at public expense if the parent disagrees with an evaluation of the student completed by Moody Early Childhood Center.

If the parent requests an IEE, Moody Early Childhood Center must respond to the parent by either:

1. without unnecessary delay, filing a due process complaint to request a hearing to show that its evaluation of the student is appropriate; or
2. providing an IEE at public expense, unless Moody Early Childhood Center demonstrates in a due process hearing that the evaluation of the student that the parent obtained did not meet Moody Early Childhood Center's criteria.

If Moody Early Childhood Center requests a hearing and the final decision is that Moody Early Childhood Center's evaluation of the student is appropriate, the parent still has the right to an IEE, but not at public expense.

If the parent requests an IEE of the student, Moody Early Childhood Center may ask why the parent objects to the evaluation of the student obtained by Moody Early Childhood Center; however, Moody Early Childhood Center may not require an explanation and may not unreasonably delay either providing the IEE of the student at public expense or filing a due process complaint to request a due process hearing to defend Moody Early Childhood Center's evaluation of the student.

The parent is entitled to only one IEE of the student at public expense each time Moody Early Childhood Center conducts an evaluation of the student with which the parent disagrees.

34 CFR 300.502.

a) Parent-Initiated Evaluations

If the parent obtains an IEE of the student at public expense or the parent shares with Moody Early Childhood Center an evaluation of the student that the parent obtained at private expense:

1. Moody Early Childhood Center must consider the results of the evaluation of the student, if it meets Moody Early Childhood Center's criteria for IEE, in any decision made with respect to the provision of a free appropriate public education to the student; and
2. The parent or Moody Early Childhood Center may present the evaluation as evidence at a due process hearing regarding the student.

34 CFR 300.502.

b) Requests for Evaluations by Hearing Officers

If a hearing officer requests an IEE of the student as part of a due process hearing, the cost of the evaluation must be at public expense.

SEC. 15. CRITERIA FOR OBTAINING IEE AT PUBLIC EXPENSE

The criteria under which the IEE is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an IEE.

a) Location

The evaluator conducting an IEE of a child with a disability at public expense must be located within a 100-mile radius of Moody Early Childhood Center. This will allow the evaluator access to Moody Early Childhood Center for observation of the student and access to the student's cumulative and special education eligibility folders.

b) Cost

Parents are free to select whomever they choose to perform the IEE, so long as the examiner meets Moody Early Childhood Center's criteria. Moody Early Childhood Center will pay a fee for an IEE that allows a parent to choose from among qualified professionals in the area.

Moody Early Childhood Center will not pay unreasonably excessive fees. An unreasonably excessive fee is one which is 20% above the prevailing fees in the area as established by the Medicaid/Medicare Service Provider Manual for the specific test being considered.

Parents will be offered the opportunity to demonstrate to their child's ARD committee that unique circumstances exist which justify an IEE that does not meet Moody Early Childhood Center criteria outlined in this document.

When evaluators have a sliding scale fee based on parent income, Moody Early Childhood Center will pay the amount charged to the parent if the evaluator meets Moody Early Childhood

Center criteria or Moody Early Childhood Center has approved the IEE that does not meet Moody Early Childhood Center criteria.

In the event a parent pursues an IEE independently or pursues an IEE provider that is not on Moody Early Childhood Center independent evaluator list, Moody Early Childhood Center will determine if the evaluator meets Moody Early Childhood Center criteria prior to authorizing payment or reimbursement. If payment will be authorized, an original billing form and an original written report with original signature must be submitted to Moody Early Childhood Center prior to payment.

Moody Early Childhood Center will deny payment for an IEE conducted by an evaluator who does not meet Moody Early Childhood Center criteria. Moody Early Childhood Center will deny payment for an IEE that does not meet TEA criteria for the specific disability identified.

If a hearing officer requests an IEE as part of a hearing on a due process complaint, the cost of the evaluation must be at public expense.

Travel costs for evaluators will not exceed Moody Early Childhood Center rates for travel as established by state guidelines.

A contract for an IEE between an evaluator and Moody Early Childhood Center will not exceed one year. All terms will become void after the expiration date of one year.

c) Evaluator Criteria

The evaluator conducting the IEE must meet Moody Early Childhood Center criteria and possess comparable credentials to the examiner that conducted the evaluation that is in dispute.

Evaluators must possess current licensure/certification to conduct the evaluation and must provide copies of his or her license or certification with the evaluation, if not previously provided.

Evaluators must comply with all requirements specified in state and federal law, including those outlined in the professional board responsible for providing the license or certification.

Evaluators must meet the examiner qualifications for the tests administered as outlined by the test producer.

The evaluator will have access to the student's cumulative folder and special education folders in gathering information about the student.

The evaluator will have the ability to interview teachers and observe the student in the educational setting.

Prior to conducting the assessment, the evaluator agrees to submit to a national criminal history review and to provide any and all information necessary to secure the national criminal history review, including fingerprints and photographs, or other information required by Texas Education Code § 22.0834 concerning Contractor or Contractor's Subcontractors.

The evaluator agrees to conduct a thorough evaluation in the area(s) performed by Moody Early Childhood Center with which the parent disagrees.

Copies of protocols must be provided to Moody Early Childhood Center.

The report must comply with all federal and state requirements, including addressing the presence or absence of a disability condition as defined under the IDEA and the Texas Education Code.

The evaluation must be provided to Moody Early Childhood Center upon completion.

Except for the criteria described above, Moody Early Childhood Center may not impose conditions or timelines related to obtaining an IEE at public expense.

34 CFR 300.502(e).

**POLICY GROUP 6 - SPECIAL EDUCATION
FUNDING - FEDERAL FUNDING COMPLIANCE
IDEA, TITLE I**

SEC. 1. COMPLIANCE

Moody Early Childhood Center shall use Individuals with Disabilities Education Act (“IDEA”) Part B funds received to:

1. comply with the federal maintenance of effort (“MOE”) requirements;
2. supplement State, local and other Federal funds and not supplant such funds; and
3. pay the excess costs of providing special education and related services to children with disabilities and must be used to supplement State, local, and other Federal funds.

34 CFR 300.202, 20 U.S.C. 1413(a)(2).

SEC. 2. REDUCING LEVEL OF EXPENDITURES

Funds provided to Moody Early Childhood Center will not be used to reduce the level of expenditures for the education of students with disabilities made by Moody Early Childhood Center below the level of those funds for the preceding year.

20 U.S.C. 1423(a)(2)(A)(iii), Appendix E to Part 300.

Moody Early Childhood Center may reduce the level of expenditures if the reduction is attributable to:

1. Voluntary departure, retirement, or departure for just cause of special education personnel;
2. A decrease in enrollment of students with disabilities;
3. The termination of the obligation of Moody Early Childhood Center to provide a special education program to a particular student with a disability that is an exceptionally costly program because the child left Moody Early Childhood Center, aged out of services, or no longer needs special education;
4. The termination of costly expenditures for long-term purchases; or
5. The assumption of cost by the high cost fund operated by the Texas Education Agency.

34 CFR 300.204.

SEC. 3. EXCESS EXPENDITURES

Having complied with MOE and excess costs requirements, IDEA Part B funds provided to the school will be used for the following activities:

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**POLICY GROUP 6 - SPECIAL EDUCATION
FUNDING - FEDERAL FUNDING COMPLIANCE
IDEA, TITLE I**

1. For the costs of special education and related services, and supplementary aids and services, provided in a regular class or other education-related setting to the child with a disability in accordance with the individualized education program (“IEP”) of the child, even if nondisabled children benefit from such services;
2. To develop and implement coordinated, early intervening educational services in compliance with the child find and administration requirements, including:
 - a. Early intervening services, which may include interagency financing structures, for children in kindergarten through grade 12 (with a particular emphasis on children in kindergarten through grade 3) who are not currently identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment;
 - b. Moody Early Childhood Center may not use more than 15 percent of the amount received under IDEA Part B for any fiscal year, less any adjustments by Moody Early Childhood Center to local fiscal effort, if any, in combination with other amounts, which may include amounts other than education funds, to develop and implement coordinated, early intervening services; and
3. To establish and implement cost or risk-sharing funds, consortia, or cooperatives for Moody Early Childhood Center, or for Moody Early Childhood Center’s working in a consortium of which Moody Early Childhood Center is a part, to pay for high-cost special education and related services.
4. Moody Early Childhood Center may use IDEA Part B funds to purchase appropriate technology for recordkeeping, data collection, and related case management activities of teachers and related services personnel providing services described in the IEP that is needed for the implementation of such case management activities.

34 CFR 300.208.

SEC. 4. EARLY INTERVENING SERVICES

Funds made available for early intervening services, must supplement not supplant funds available under the Elementary and Secondary Education Act (“ESEA”).

34 CFR 300.226(e).

SEC. 5. USE OF IDEA PART B FUNDS FOR TITLE 1 PROGRAMS

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**POLICY GROUP 6 - SPECIAL EDUCATION
FUNDING - FEDERAL FUNDING COMPLIANCE
IDEA, TITLE I**

Notwithstanding any other provisions related to commingling of funds, Moody Early Childhood Center may use IDEA Part B funds received for any fiscal year to carry out a Title 1, Part A school wide programs under ESEA, except that the amount may not exceed:

- the amount received by the school under IDEA Part B for that fiscal year; divided by
- the number of students with disabilities in the jurisdiction of the school; and multiplied by
- the number of students with disabilities participating in the school wide program.

34 CFR 300.206; 20 U.S.C. 1413.

SEC. 6. COMPLIANCE WITH FEDERAL FUNDING REQUIREMENTS: TITLE 1

To the extent required under Title 1 of the ESEA, Moody Early Childhood Center shall ensure equity among school programs in staff/student ratios and in expenditures of money for curriculum materials and instructional supplies. “Staff” shall include teachers, administrators, and auxiliary personnel. In special programs, such as special education and bilingual education, a lower ratio may be maintained and more money may be spent as necessary to fulfill other legal requirements.

The parental involvement program shall be set up in accordance with requirements of Title 1 of the ESEA, as applicable. Parental involvement is encouraged and required in the planning and decision-making process for the school and for the campus.

SEC. 1. NONEDUCATIONAL COMMUNITY BASED SUPPORT SERVICES

Students with disabilities and their families may be eligible to receive noneducational community based support services paid for by public funds.

The Texas Education Agency (“TEA”) is responsible for establishing procedures and criteria for the allocation of noneducational funds to open-enrollment charter schools for the provision of noneducational community-based support services to certain students with disabilities and their families so that those students may receive a free appropriate public education (“FAPE”) in the least restrictive environment.

Education Code 29.013(a).

Moody Early Childhood Center shall use any funds allocated under Education Code Section 29.013 only for eligible students with disabilities who would remain or would have to be placed in residential facilities primarily for educational reasons without the provision of noneducational community-based support services.

Education Code 29.013(b).

The support services may include in-home family support, respite care, and case management for families with a student who otherwise would have been placed by an open-enrollment charter school in a private residential facility.

Education Code 29.013(c).

The provision of services under Education Code Section 29.013 does not supersede or limit the responsibility of other agencies to provide or pay for costs of noneducational community-based support services to enable any student with disabilities to receive a FAPE in the least restrictive environment. Specifically, services provided under Education Code Section 29.013 may not be used for a student with disabilities who is currently placed or who needs to be placed in a residential facility primarily for noneducational reasons. Funds cannot be used to cover services already required through the student’s individual education program or for long-term care.

Education Code 29.013(d).

SEC. 1. SHARED SERVICES ARRANGEMENT

Moody Early Childhood Center may enter into a written contract to jointly operate its special education programs. Funds to which the cooperating schools/charter schools are entitled may be allocated to the schools/charter schools jointly as shared services arrangement units or shared services arrangement funds in accordance with the shared services arrangement schools/charters' agreement, Texas Education Agency Guidance and Texas Government. Code Chapter 791 (interlocal agreements).

**POLICY GROUP 6 - SPECIAL EDUCATION
FUNDING – STATE ALLOTMENTS**

SEC. 1. STATE FUNDING: SPECIAL ALLOTMENTS

Moody Early Childhood Center shall maintain records of students participating in special programs in accordance with the Commissioner of Education’s rules.

19 TAC 129.21.

SEC. 2. SPECIAL EDUCATION ALLOTMENT

Each open-enrollment charter school will receive an annual allotment equal to the adjusted basic allotment multiplied by 1.1 for each student receiving special education and related services in a mainstream instructional arrangement. For each full-time equivalent student receiving special education and related services in average daily attendance in an instructional arrangement other than a mainstream instructional arrangement, the open-enrollment charter school is entitled to an annual allotment equal to the adjusted basic allotment multiplied by a weight determined according to instructional arrangement as set forth in Section 48.102, Texas Education Code.

Funds allocated under this section, other than an indirect cost allotment established under State Board of Education (“SBOE”) rule, must be used in the special education program under Subchapter A, Chapter 29 of the Texas Education Code.

Education Code 48.102(h).

SEC. 3. COMPENSATORY EDUCATION ALLOTMENT

Moody Early Childhood Center must use funds allocated under TEC §48.104 for a purpose authorized in Section 48.104(j-1), (k) of the Texas Education Code

Education Code 48.104.

Funds allocated under Education Code Section 48.104 shall be used to fund supplemental programs and services designed to eliminate any disparity in performance on assessment instruments administered under Subchapter B (School-Based Health Centers), Chapter 39, Texas Education Code, or disparity in the rates of high school completion between students at risk of dropping out of school, as defined by Section 29.081 of the Education Code (Compensatory, Intensive, and Accelerated Instruction) and all other students. Specifically, the funds, other than an indirect cost allotment established under SBOE rule, which may not exceed 45 percent, may be used to meet the costs of providing a compensatory, intensive, or accelerated instruction program under Education Code Section 29.081 or an alternative education program established under Education Code Section 37.008 (Disciplinary Alternative Education Programs) or to support a program eligible under Title I of the Elementary and Secondary Education Act of 1965,

**POLICY GROUP 6 - SPECIAL EDUCATION
FUNDING – STATE ALLOTMENTS**

as provided by Pub. L. No. 103-382 and its subsequent amendments, and by federal regulations implementing that Act, at a campus at which at least 40 percent of the students are educationally disadvantaged. In meeting the costs of providing a compensatory, intensive, or accelerated instruction program under Education Code Section 29.081, Moody Early Childhood Center's compensatory education allotment shall be used for costs supplementary to the regular education program, such as costs for program and student evaluation, instructional materials and equipment and other supplies required for quality instruction, supplemental staff expenses, salary for teachers of at-risk students, smaller class size, and individualized instruction.

Education Code 48.104(k).

SEC. 4. BILINGUAL EDUCATION ALLOTMENT

For each student in average daily attendance in a bilingual education or special language program under Subchapter B, Chapter 29, an open-enrollment charter school is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 0.1. Funds allocated under this section, other than an indirect cost allotment established under SBOE rule, must be used in providing bilingual education or special language programs under Subchapter B, Chapter 29, and must be accounted for under existing agency reporting and auditing procedures. An open-enrollment charter school's bilingual education or special language allocation may only be used for program and student evaluation, instructional materials and equipment, staff development, supplemental staff expenses, salary supplements for teachers, and other supplies required for quality instruction and smaller class size.

Education Code 12.104(b)(3)(G), 42.105.

SEC. 5. CAREER AND TECHNOLOGY EDUCATION ALLOTMENT

For each full-time equivalent student in average daily attendance in an approved career and technology education program in grades 7 through 12 or in career and technology education programs for students with disabilities in grades seven through 12, an open-enrollment charter school is entitled to:

1. an annual allotment equal to the adjusted basic allotment multiplied by a weight of 1.35; and
2. \$50 for each of the following in which the student is enrolled:
 - a. two or more advanced career and technology education classes for a total of three or more credits;
 - b. a campus designated as a P-TECH school under Section 29.566; or
 - c. a campus that is a member of the New Tech Network and that focuses on project-based learning and work-based education.

**POLICY GROUP 6 - SPECIAL EDUCATION
FUNDING – STATE ALLOTMENTS**

For purposes of this allotment, “full-time equivalent student” means 30 hours of contact a week between a student and career and technology education program personnel.

At least 55% of the funds allocated under this section must be used in providing career and technology education programs in grades 7 through 12.

Education Code 48.106.

SEC. 1. COMPLIANCE WITH GENERAL AND FISCAL GUIDELINES

Moody Early Childhood Center must comply with the Texas Education Agency General and Fiscal Guidelines.

SEC. 2. CHARGING COSTS TO SPECIAL EDUCATION GRANT

Moody Early Childhood Center may charge costs to a special education grant when those costs follow the Moody Early Childhood Center's local written procedures for allowability of costs and meet the following criteria:

- Are reasonable for the performance of the special education grant and are allocable under the applicable cost principles;
- Conform to limitations or exclusions set forth in applicable cost principles or the special education grant agreement as to types or amount of costs;
- Are consistent with policies and procedures that apply uniformly to federally or state-funded activities funded from other sources;
- Are accorded consistent treatment among all grant programs, regardless of funding source;
- Are not included as a cost or used to meet cost-sharing or matching requirements of any other federally or state-funded program in the current or a prior period; and
- Are adequately documented.

SEC. 3. REASONABLE COST

A cost can be considered reasonable if it meets the following standards:

- The cost is of a type generally recognized as ordinary and necessary for the operation of Moody Early Childhood Center or grant performance;
- Restrictions or requirements are imposed for generally accepted sound business practices, arms-length bargaining, federal or state laws and regulations, and grant award terms and conditions;
- Consideration is given to market prices for comparable goods or services for the geographical area;
- Individuals are acting with prudence in the circumstances of responsibility to Moody Early Childhood Center and federal and state government; and
- There are no significant deviations from established practices of Moody Early Childhood Center that may unjustifiably increase grant costs.

a) Allocating Costs

A cost is allocable to the special education grant in accordance with relative benefits received if it is treated consistently with other costs incurred for the same purposes in like circumstance and if it meets the following:

- Is incurred specifically for the grant;
- Benefits both the grant and the other work and can be distributed in reasonable proportion to the benefits received; and
- Is necessary to the overall operation of Moody Early Childhood Center and is assignable in part to the special education grant award in accordance with the principles of this framework.

SEC. 1. FOSTER PARENT

A foster parent may act as a parent of a child with a disability, as authorized under 20 U.S.C. 1415(b) and its subsequent amendments, if:

1. the Department of Family and Protective Services (“DFPS”) is appointed as the temporary or permanent managing conservator of the child;
2. the rights and duties of the department to make decisions regarding education provided to the child under Section 153.371, Family Code, have not been limited by court order; and
3. the foster parent agrees to:
 - a. participate in making special education decisions on the child’s behalf; and
 - b. complete a training program that complies with minimum standards established by the Texas Education Agency (“TEA”) rule.

Education Code 29.015(a).

A foster parent who will act as a parent of a child with a disability must complete a training program before the next scheduled admission, review, and dismissal (“ARD”) committee meeting for the child but not later than the 90th day after the date the foster parent begins acting as the parent for the purpose of making special education decisions.

Education Code 29.015(b).

Moody Early Childhood Center may not require a foster parent to retake a training program to continue serving as a child’s parent or to serve as the surrogate parent for another child if the foster parent has completed a training program to act as a parent of a child with a disability provided by:

1. the DFPS;
2. a school district;
3. an education service center; or
4. any other entity that receives federal funds to provide special education training to parents.

A foster parent who is denied the right to act as a parent under Education Code Section 29.015 by an open-enrollment charter school may file a complaint with the TEA in accordance with federal law and regulations.

Education Code 29.015(c).

Moody Early Childhood Center shall provide notice to the student's educational decision-maker and caseworker regarding events that may significantly impact the education of a student, including:

1. requests or referrals for an evaluation under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), or special education under Education Code Section 29.003;
2. ARD committee meetings;
3. manifestation determination reviews required by Education Code Section 37.004(b);
4. any disciplinary actions under Chapter 37 of the Education Code for which parental notice is required;
5. citations issued for Class C misdemeanor offenses on school property or at school-sponsored activities;
6. reports of restraint and seclusion required by Education Code Section 37.0021; and
7. use of corporal punishment as provided by Education Code Section 37.0011.

Education Code 25.007.

As a condition to receiving funds under Title I, Part A, Moody Early Childhood Center shall collaborate with the state or local child welfare agency to:

- a. ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with 42 U.S.C. 675(4)(A) and to the extent required by law; and
- b. ensure that, if there are additional costs incurred in providing transportation to maintain children in foster care in their schools of origin, Moody Early Childhood Center will, to the extent required by law, provide transportation to the school of origin if:
 - i. the local child welfare agency agrees to reimburse Moody Early Childhood Center for the cost of transportation;
 - ii. Moody Early Childhood Center agrees to pay the cost of transportation; or
 - iii. Moody Early Childhood Center and the local welfare agency agree to share the cost of such transportation.

20 U.S.C. 6312(c)(5).

SEC. 2. SURROGATE PARENT

Moody Early Childhood Center must appoint an individual to serve as the surrogate parent for a child if:

1. Moody Early Childhood Center is unable to identify or locate a parent for a child with a disability; or
2. the foster parent of a child is unwilling or unable to serve as a parent.

A surrogate parent appointed by Moody Early Childhood Center may not:

1. be an employee of the state, Moody Early Childhood Center, or any other agency involved in the education or care of the child; or
2. have any interest that conflicts with the interests of the child.

A surrogate parent must:

1. be willing to serve in that capacity;
2. exercise independent judgement in pursuing the child's interests;
3. ensure that the child's due process rights under applicable state and federal laws are not violated;
4. complete a training program that complies with minimum standards established by agency rule before the next scheduled admission, review, and dismissal committee meeting for the child but not later than the 90th day after the date the surrogate parent is appointed;
5. visit the child and the school where the child is enrolled;
6. review the child's educational records;
7. consult with any person involved in the child's education, including the child's teachers, caseworkers, court-appointed volunteers, guardian ad litem, attorney ad litem, foster parent, and caregiver; and
8. attend meetings of the child's admission, review, and dismissal committee.

Moody Early Childhood Center may appoint a person who has been appointed to serve as a child's guardian ad litem or as a court-certified volunteer advocate as the child's surrogate parent. As soon as practicable after appointing a surrogate parent Moody Early Childhood Center shall provide written notice of the appointment to the child's educational decision-maker and caseworker.

If a court appoints a surrogate parent for a child with a disability and the Moody Early Childhood Center determines that the surrogate parent is failing to perform or is not properly performing the duties listed in this policy, Moody Early Childhood Center shall consult with the DFPS regarding whether another person should be appointed to serve as the surrogate parent for the child.

**POLICY GROUP 6 - SPECIAL EDUCATION
PRIVATE SCHOOL CHILDREN**

SEC. 1. CHILD FIND PRIVATE SCHOOL STUDENTS

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

Moody Early Childhood Center shall undertake activities similar to those undertaken for children enrolled in public schools and shall complete the child find process for children enrolled in private schools in a time period comparable to that for other students attending the public schools within Moody Early Childhood Center’s boundaries.

20 U.S.C. 1412(a)(10)(A)(ii)–(iv).

SEC. 2. SPECIAL EDUCATION STUDENTS PLACED IN PRIVATE SCHOOL

a) Placement by Moody Early Childhood Center

If Moody Early Childhood Center places a child with a disability in a private school or facility, or refers the child to a private school or facility, as a means of carrying out the requirements of the special education laws, Moody Early Childhood Center shall ensure that the child is provided special education and related services, in accordance with an individualized education program (“IEP”), at no cost to the parents.

20 U.S.C. 1412(a)(10)(B)(i).

b) Placement by the Parent

When a student with a disability who has been placed by his or her parent directly in a private school is referred to Moody Early Childhood Center, Moody Early Childhood Center shall convene an admission, review, and dismissal (“ARD”) committee to determine whether Moody Early Childhood Center can offer the child a free appropriate public education (“FAPE”). If Moody Early Childhood Center determines that it can offer a FAPE to the student, Moody Early Childhood Center is not responsible for providing educational services to the student, except as provided in 34 CFR 300.130–300.144 or 19 TAC 89.1096(e), until such time as the parents choose to enroll the student in Moody Early Childhood Center full time.

19 TAC 89.1096(b).

SEC. 3. REJECTION OF OFFER OF FAPE

a) Student Receives ISP

If Moody Early Childhood Center offers to provide a FAPE to a child with a disability and the parents elect to place the child in a private school or facility, Moody Early Childhood Center is not required to pay for the cost of education, including special education and related services. However, Moody Early Childhood Center must develop and implement an individualized services plan (“ISP”) for the child.

20 U.S.C. 1412(a)(10)(C)(i); 34 CFR 300.148(a).

b) Reimbursement

If the parents of a child with a disability, who previously received special education and related services under the authority of Moody Early Childhood Center, enroll the child in a private school without the consent or referral by Moody Early Childhood Center, a court or a hearing officer may require Moody Early Childhood Center to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that Moody Early Childhood Center had not made a FAPE available to the child in a timely manner before the enrollment.

20 U.S.C. 1412(a)(10)(C)(ii); 34 CFR 300.148(c).

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PROCEDURAL SAFEGUARDS AND REQUIREMENTS**

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SEC. 1. PROCEDURAL SAFEGUARDS

The Superintendent or designee shall establish and maintain procedures to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education (“FAPE”).

20 U.S.C. 1415(a)–(b).

These procedures shall include:

1. An opportunity for the parents to review all education records and to participate in meetings relating to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child. *34 CFR 300.501.*
2. An opportunity for the parents to obtain an independent educational evaluation of the child. *34 CFR 300.502.*
3. Assignment of an individual to act as a surrogate for the parent when no parent can be identified, Moody Early Childhood Center cannot locate the parents, or the child is a ward of the state. *34 CFR 300.519.*
4. Prior written notice to the parents whenever Moody Early Childhood Center proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. *34 CFR 300.503.*
5. Procedures to allow parties to resolve disputes through a mediation process. *34 CFR 300.506.*
6. An opportunity for any party to file a due process complaint on any matter relating to the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. *34 CFR 300.507.*
7. Procedures that require either party, or the attorney representing a party, to provide the other party a due process complaint (which shall remain confidential). *34 CFR 300.508.*

SEC. 2. LANGUAGE OF NOTICES

The procedural safeguards and prior written notices described below must be written in a language understandable to the general public. The notice must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

34 CFR 300.503(c), 300.504(d).

a) Electronic Delivery of Notices

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A parent who has a child with a disability may elect to receive required notices required by 34 CFR 300.503, 300.504 and 300.508 by electronic mail, if Moody Early Childhood Center makes that option available.

34 CFR 300.505.

b) Notice of Procedural Safeguards

Moody Early Childhood Center shall provide a copy of the procedural safeguards to parents only once per year, except that a copy also shall be given to the parents:

1. Upon initial referral or parental request for evaluation;
2. Upon receipt of the first state complaint and upon receipt of the first due process complaint in a school year;
3. On the date of a decision to make a disciplinary removal that is a change in placement; and
4. Upon request by a parent.

Moody Early Childhood Center may also place a current copy of the procedural safeguards notice on its Internet website.

c) Contents of Notice

The notice shall include a full explanation of the procedural safeguards relating to:

1. Independent educational evaluations;
2. Prior written notice;
3. Parental consent;
4. Access to educational records;
5. Opportunity to present and resolve complaints through the due process complaint and state complaint procedures, including:
 - a. The time period in which to file a complaint,
 - b. The opportunity for Moody Early Childhood Center to resolve the complaint; and
 - c. The difference between the due process complaint and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures.
6. The availability of mediation;
7. The child's placement during pendency of any due process proceedings;
8. Procedures for children who are subject to placement in an interim alternative educational setting;
9. Requirements for unilateral placement by parents of children in private schools at public expense;

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10. Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
11. Civil actions, including the time period in which to file such actions; and
12. Attorneys' fees.

20 U.S.C. 1415(a)–(b), (d); 34 CFR 300.504(c).

SEC. 3. DISPUTE RESOLUTION

The possible options for resolving disputes that arise between a parent and Moody Early Childhood Center relating to the identification, evaluation, or educational placement of or the provision of FAPE to a student with a disability include, but are not limited to:

1. ARD committee meetings, including IEP facilitation if offered by Moody Early Childhood Center, under 19 TAC 89.1196;
2. Meetings or conferences with the student's teachers;
3. Meetings or conferences, subject to Moody Early Childhood Center policies, with the principal, special education director, Superintendent, or Board;
4. Requesting state IEP facilitation in accordance with 19 TAC 89.1197 (relating to State Individualized Education Program Facilitation);
5. Requesting mediation through the Texas Education Agency ("TEA") in accordance with 34 CFR 300.506;
6. Filing a complaint with TEA in accordance with 34 CFR 300.153; or
7. Requesting a due process hearing through TEA in accordance with 34 CFR 300.507-300.514.

19 TAC 89.1150.

SEC. 4. DUE PROCESS COMPLAINT

Whenever a due process complaint has been received by Moody Early Childhood Center, the parent shall have an opportunity for an impartial due process hearing, which shall be conducted by TEA.

a) Time Limits

1. *Due Process Complaints Filed Before September 1, 2022:*

A due process complaint filed before September 1, 2022 must set forth an alleged violation that occurred not more than one year before the date the parent or Moody Early Childhood Center knew or should have known about the alleged action that forms the basis of the complaint. *20 U.S.C. 1415(f)(1)(A); 19 TAC 89.1151(c).*

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2. Due Process Complaints Filed On or After September 1, 2022:

A due process complaint filed on or after September 1, 2022 must set forth an alleged violation that occurred not more than two years before the date the parent or Moody Early Childhood Center knew or should have known about the alleged action that forms the basis of the complaint. *20 U.S.C. 1415(f)(1)(A); Education Code 29.0164.*

b) Exceptions

These time limits shall not apply if the parent was prevented from requesting a hearing due to:

1. A specific misrepresentation by Moody Early Childhood Center that it had resolved the problem forming the basis of the complaint; or
2. Moody Early Childhood Center’s withholding of information from the parent that Moody Early Childhood Center was required by the IDEA to provide.

20 U.S.C. 1415(f)(3)(D); 34 CFR 300.511(f);19 TAC 89.1151(d).

c) “Stay Put”

During the pendency of any administrative or judicial proceeding regarding a due process complaint notice requesting a due process hearing, the child shall remain in the then-current educational placement unless Moody Early Childhood Center and the parent agree otherwise. If the child is applying for initial admission to a public school, the child shall, with the consent of the parents, be placed in the public school program until all proceedings have been completed. *20 U.S.C. 1415(j); 34 CFR 300.518, 300.533.*

d) Exception

When a due process hearing has been requested by a parent or Moody Early Childhood Center concerning a disciplinary change of placement or manifestation determination, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the child’s assignment to the alternative setting, or the 45-day timeline, if applicable, whichever occurs first, unless the parent and Moody Early Childhood Center agree otherwise. *20 U.S.C. 1415(k)(3)(A), 1415(k)(4)(A); 34 CFR 300.533.*

e) Resolution Process

Within 15 days of receiving notice of a parent’s due process complaint, and before initiating a due process hearing under 34 CFR 300.511, Moody Early Childhood Center shall convene a meeting with the parent and the relevant member or members of the ARD committee. The purpose of the meeting is for the parent to discuss the due process complaint and the facts that

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form the basis of the due process complaint, so that Moody Early Childhood Center has the opportunity to resolve the dispute.

The meeting need not be held if the parent and Moody Early Childhood Center agree in writing to waive the meeting, or the parent and Moody Early Childhood Center agree to use the mediation process.

If Moody Early Childhood Center has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the complaint, the due process hearing may occur. If Moody Early Childhood Center is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made, Moody Early Childhood Center may, at the conclusion of the 30-day period, request that a hearing officer dismiss the parent’s due process complaint.

34 CFR 300.510.

SEC. 5. TRANSFER OF RIGHTS TO ADULT STUDENTS

When a student reaches the age of 18, Moody Early Childhood Center shall notify the student and the parents of the transfer of parental rights. This notice is separate and distinct from the requirement that, beginning at least one year before the student reaches the age of 18, the student’s IEP include a statement regarding transfer of parental rights.

A student with a disability who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Chapter 31, Family Code, shall have the same right to make educational decisions as a student without a disability. All other rights accorded to parents under Chapter 29, Subchapter A of the Education Code or 20 U.S.C. 1415 transfer to the student.

34 CFR 300.520; Education Code 29.017(a)–(b); 19 TAC 89.1049(c).

Student records shall be maintained for each student from the time the student is in attendance at Moody Early Childhood Center until withdrawal or graduation from Moody Early Childhood Center. These records shall move with the respective student from campus to campus. Records for students not in attendance and/or withdrawn students and graduates shall be retained for the period of time required by law. No permanent records may be destroyed without explicit written permission from the Superintendent.

SEC. 1. EDUCATION RECORDS

a) *“Education Records” Defined*

For the purposes of this policy, the term “education records” means those records, files, documents, and other materials that contain information directly related to a student and are maintained by Moody Early Childhood Center or by a person acting for Moody Early Childhood Center.

The term “education records” does not include:

1. Records that are created or received by Moody Early Childhood Center after an individual is no longer a student in attendance, and that are not directly related to the individual’s attendance as a student.
2. Records made by Moody Early Childhood Center personnel that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to anyone other than a temporary substitute for the maker of the record.
3. Records maintained by a law enforcement unit of Moody Early Childhood Center that were created by that law enforcement unit for the purpose of law enforcement.
4. Records on a student who is eighteen years of age or older, or who is attending an institution of postsecondary education, that are:
 - a. Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;
 - b. Made, maintained, or used only in connection with treatment of the student; and
 - c. Disclosed only to individuals providing the treatment. For the purpose of this definition, “treatment” does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution.
5. Grades on peer-graded papers before they are collected and recorded by a teacher.

State and federal law safeguard educational records from unauthorized inspection or use. All information relating to student performance, including grades, test results, and disciplinary records are considered confidential educational records. Release of those records are restricted to parents; school staff members with a legitimate educational interest; various governmental

agencies or in response to a subpoena or court order; or a school to which the student transfers or subsequently enrolls. Release to any other person or agency will occur only with prior written consent of the parent.

b) Screening Records

The Principal of each Moody Early Childhood Center campus shall maintain records of screening for special senses and communication disorders, spinal screening, and assessment for type 2 diabetes for each student in Moody Early Childhood Center. Records shall be open for inspection by the state or local health department. The Texas-Mexico Border Health Coordination Office may, directly or through local health departments, enter a school and inspect records relating to assessment for type 2 diabetes. Individual screening records may be transferred among schools in accordance with Section 2-d (Access by Other Persons) below.

c) Immunization Records

Moody Early Childhood Center shall maintain an individual immunization record during the period of attendance for each student admitted. The records shall be open for inspection at all reasonable times by the Texas Education Agency (“TEA”) or by representatives of local health departments or the Texas Department of State Health Services (“TDSHS”). Moody Early Childhood Center shall cooperate with other districts and schools in transferring students’ immunization records between other schools. Specific approval from students or parents is not required prior to making such record transfers.

d) Medical Records

The parent of a student is entitled to access the student’s medical records maintained by Moody Early Childhood Center. On request of a student’s parent, Moody Early Childhood Center shall provide a copy of the student’s medical records to the parent. Moody Early Childhood Center may not impose a charge that exceeds the amount authorized by Section 552.261 of the Government Code.

e) Privacy Rule for Non-“Education Records”

To the extent Moody Early Childhood Center is a covered entity under the Health Insurance Portability and Accountability Act (“HIPAA”), Moody Early Childhood Center must comply with the Privacy Rule, 45 CFR Part 164, with respect to protected health information that is not an education record.

f) Food Allergy Information

Information regarding a child's food allergy, regardless of how it is received by Moody Early Childhood Center, shall be retained in the child's student records, but may not be placed in the health record maintained for the child by Moody Early Childhood Center.

i. Exceptions

If Moody Early Childhood Center receives documentation of a food allergy from a physician, that documentation shall be placed in the health record maintained for the child by Moody Early Childhood Center. A registered nurse may enter appropriate notes about a child's possible food allergy in the health record maintained for the child by Moody Early Childhood Center, including a notation that the child's student records indicate that a parent has notified Moody Early Childhood Center of the child's possible food allergy.

*g) **Assessment Instruments***

The results of individual student performance on basic skills assessment instruments or other achievement tests administered by Moody Early Childhood Center are confidential and may be made available only to the student, the student's parent, and to Moody Early Childhood Center personnel directly involved with the student's educational program. However, overall student performance data shall be aggregated by ethnicity, sex, grade level, subject area, campus, and school system, and made available to the public, with appropriate interpretations, at regularly scheduled Board meetings. The information may not contain the names of individual students or teachers.

*h) **Academic Achievement Records (Grades 9–12)***

Moody Early Childhood Center shall use the academic achievement record (transcript) form adopted by the State Board of Education ("SBOE"). This form shall serve as the academic record for each student and shall be maintained permanently by Moody Early Childhood Center. Copies of the record shall be made available to students transferring to another district. The information may be provided to the student or to the receiving district or to both. Moody Early Childhood Center shall respond promptly to all requests for student records from receiving districts.

*i) **Enrollment Records***

If a parent or other person with legal control of a child enrolls the child in Moody Early Childhood Center, the parent or other person, or the school district in which the child most recently attended school, shall furnish to Moody Early Childhood Center all of the following:

1. The child's birth certificate, or another document suitable as proof of the child's identity as defined by the Commissioner of Education in the Student Attendance Accounting Handbook.
2. A copy of the child's records from the school the child most recently attended if he or she was previously enrolled in a school in Texas or in another state.

Moody Early Childhood Center must furnish information under items 1 and 2 not later than the tenth working day after the date Moody Early Childhood Center receives a request for the information.

If a parent or other person with legal control of a child under a court order requests that Moody Early Childhood Center transfer a child's student records, Moody Early Childhood Center shall notify the parent or other person as soon as practicable that the parent or other person may request and receive an unofficial copy of the records for delivery in person to a school in another district.

SEC. 2. ACCESS, DISCLOSURE, AND AMENDMENT

a) Definitions

i. "Attendance"

"Attendance" includes, but is not limited to:

1. Attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom; and
2. The period during which a person is working under a work-study program.

ii. "Disclosure"

"Disclosure" means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

iii. "Parent"

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

iv. “Personally Identifiable Information”

“Personally identifiable information” includes, but is not limited to:

1. The student’s name;
2. The name of the student’s parent or other family members;
3. The address of the student or student’s family;
4. A personal identifier, such as the student’s biometric record, defined as a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual (e.g., fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting); social security number; or student number;
5. Other indirect identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name;
6. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
7. Information requested by a person who Moody Early Childhood Center reasonably believes knows the identity of the student to whom the education record relates.

v. “Record”

“Record” means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audiotape, film, microfilm, and microfiche.

vi. “Authorized Representative”

“Authorized representative” means any entity or individual designated by a state or local educational authority or an agency headed by an official listed in 34 C.F.R. 99.31(a)(3) to conduct—with respect to federal- or state-supported education programs—any audit, evaluation, or any compliance or enforcement activity in connection with federal legal requirements that relate to these programs.

vii. “Education Program”

“Education program” means any program that is principally engaged in the provision of education, including but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education, and adult education, and any program that is administered by Moody Early Childhood Center.

viii. “Signed and Dated Written Consent”

“Signed and dated written consent” may include a record and signature in electronic form that:

1. Identifies and authenticates a particular person as the source of the electronic consent; and
2. Indicates such person’s approval of the information contained in the electronic consent.

b) Access by Parents

Access to the education records of a student who is or has been in attendance at Moody Early Childhood Center shall be granted to the parent of the student who is a minor or who is a dependent for tax purposes.

Moody Early Childhood Center shall presume that a parent has authority to inspect and review the student’s records unless it has been provided with evidence that there is a court order, state statute, or legally binding document that specifically revokes these rights. A court may order the custodian of records to delete all references in a child’s records to the place of residence of either party appointed as conservator before their release to another party appointed as conservator.

c) Access by Student

Whenever a student has attained 18 years of age or is attending an institution of postsecondary education, the rights accorded to, and consent required of, parents transfer from the parents to the student.

Nothing in this section prevents Moody Early Childhood Center from disclosing education records, or personally identifiable information from education records, to a parent without prior written consent of an eligible student if the disclosure meets the conditions in 34 CFR 99.31(a), including if the student is a dependent for tax purposes or in the case of a health or safety emergency.

If material in the education record of a student includes information on another student, only the portion of the material relating to the student whose records were requested may be inspected and reviewed.

d) Access by Other Persons

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

i. School Officials

Moody Early Childhood Center may disclose personally identifiable information without parent consent when disclosure is made to school officials with legitimate educational interest in the information. A school official is:

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

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

Moody Early Childhood Center must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests.

ii. Officials of Other Schools

Officials of other schools or school systems in which the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer, provided that Moody Early Childhood Center either:

1. Includes in its policies a statement that notifies the parent or student that it forwards education records on request of the other school to such officials; or
2. Makes a reasonable attempt to notify the parent (unless the record transfer is initiated by the parent).

In either case, Moody Early Childhood Center shall furnish a copy of the transferred records to the parent if requested and shall give the parent an opportunity for a hearing to challenge the content of the record.

iii. Authorized Governmental Representatives

Authorized representatives of the officials or agencies headed by the Comptroller General of the United States, the Attorney General of the United States, the Secretary of Education, or state and local educational authorities who require access to student or other records necessary in connection with the audit and evaluation of federal- or state-supported education programs or in connection with the enforcement of or compliance with federal legal requirements that relate to such programs.

Moody Early Childhood Center may not refuse to report information concerning a student holding an F, J, or M visa on the basis of the Family Educational Rights and Privacy Act (“FERPA”) and any regulation implementing FERPA. Moody Early Childhood Center is authorized and required to report information that would ordinarily be protected by FERPA only to the extent required by 8 U.S.C. 1372, 8 CFR 214.3, or any corresponding regulation.

iv. Financial Aid Personnel

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

v. Juvenile Justice Officials

State and local officials to whom such information is specifically allowed to be reported or disclosed by state statute if:

1. The allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve the student whose records are released, and
2. The officials and authorities to whom such information is disclosed certify in writing to Moody Early Childhood Center that the information will not be disclosed to any other party except as provided under state law without the prior written consent of the parent of the student.

vi. Organizations Conducting Surveys

Organizations conducting studies for, or on behalf of, Moody Early Childhood Center for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction. Such studies must be conducted so that personal identification of students and their parents will not be revealed to persons other than authorized

personnel of the organizations conducting the studies who have legitimate interests in the information. Such information must be destroyed when no longer needed for the original purposes of the studies.

Moody Early Childhood Center must enter into a written agreement with the organization that:

1. Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;
2. Requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement;
3. Requires the organization to conduct the study in a manner that does not permit personal identification of parents and students, as defined in this part, by anyone other than representatives of the organization with legitimate interests; and
4. Requires the organization to destroy or return to Moody Early Childhood Center all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be returned or destroyed.

If Moody Early Childhood Center enters into an agreement with an organization conducting a study, it may redisclose personally identifiable information from education records on behalf of educational agencies and institutions that disclosed the information to Moody Early Childhood Center in accordance with the requirements of 34 C.F.R. 99.33(b).

Moody Early Childhood Center is not required to initiate a study or agree with or endorse the conclusions or results of the study.

vii. Accrediting Organizations

Accrediting organizations that require the information for purposes of accreditation.

viii. Health & Safety Emergency

Appropriate persons, including the student's parents, who, in an emergency, must have such information in order to protect the health or safety of the student or other person.

In making a determination, Moody Early Childhood Center may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If Moody Early Childhood Center determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education

records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals.

ix. Secretary of Agriculture

The Secretary of Agriculture, or authorized representative from the Food and Nutrition Service, for the purposes of conducting program monitoring, evaluations, and performance measurements of schools receiving funding or providing benefits of programs authorized under the National School Lunch Act or the Child Nutrition Act.

x. State or Local Child Welfare Agency

An agency caseworker or other representative of a state or local child welfare agency who has the right to access a student's case plan when the agency is legally responsible, in accordance with state law, for the care and protection of the student.

xi. Directory Information

Any person requesting directory information after Moody Early Childhood Center has given public notice of that definition

e) Written Consent

The parent shall provide a signed and dated written consent before Moody Early Childhood Center discloses personally identifiable information from a student's education records to any individual, agency, or organization other than the parent, the student, or those listed above. Such consent shall specify records to be released, the reason for such release, and to whom the records are to be released.

f) Instructional Resources and Parental Rights

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

g) Information Collection

i. DOE Funded Surveys

No student shall be required, as part of any program funded in whole or in part by the DOE, to submit to a survey, analysis, or evaluation that reveals information concerning the following topics without the prior consent of the student (if the student is an adult or emancipated minor), or, in the case of an unemancipated minor, without the prior written consent of the parent:

1. Political affiliations or beliefs of the student or the student's parents.
2. Mental and psychological problems of the student or the student's family.
3. Sex behavior and attitudes.
4. Illegal, anti-social, self-incriminating, and demeaning behavior.
5. Critical appraisals of other individuals with whom students have close family relationships.
6. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.
7. Religious practices, affiliations, or beliefs of the student or student's parent.
8. Income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program.

ii. Information Collection Funded by Other Sources

Except as provided by 20 U.S.C. 1232h(a) or (b), as a condition of receiving funds from programs funded in whole or in part by the DOE, Moody Early Childhood Center shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), and provide for parent notification in accordance with 20 U.S.C. 1232(c)(2).

iii. Subpoenaed Records

Moody Early Childhood Center shall release student records to an entity or persons designated in a subpoena. Moody Early Childhood Center shall not disclose to any person the existence or contents of the subpoena if a court orders Moody Early Childhood Center to refrain from such disclosure. Unless the court or other issuing agency orders Moody Early Childhood Center to refrain from such disclosure or the order is an *ex parte* court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331, Moody Early Childhood Center shall make a reasonable effort to notify the parents and the student of all such subpoenas in advance of compliance.

iv. Sex Offenders

Moody Early Childhood Center may disclose personally identifiable information without consent if the disclosure concerns sex offenders and other individuals required to register under section

170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to Moody Early Childhood Center under 42 U.S.C. 14071 and applicable federal guidelines.

h) Parental Rights and Student Privacy

As a condition of receiving funds under any applicable program, Moody Early Childhood Center adopts the following policies, pursuant to 20 U.S.C. 1232h(c)(1):

1. Parents have a right to inspect any survey created by a third party before the survey is administered or distributed by Moody Early Childhood Center to the student. Parents should submit such a request to the Principal, and shall be provided an opportunity to inspect the survey within a reasonable period of time as determined by the Principal. Upon a parent's request to inspect a survey, the parent's child shall not participate in the survey until the parent has had a reasonable opportunity to inspect the survey, as determined by the Principal.
2. In the event a survey contains the items listed above, and is administered or distributed to students, Moody Early Childhood Center shall comply with FERPA and other applicable law to protect student privacy.
3. Parents have a right to inspect any instructional material used in the educational curriculum for the student. Parents should submit such a request to the Principal. The Principal shall provide reasonable access to parents within a reasonable period of time, as determined by the Principal.
4. Moody Early Childhood Center may administer physical examinations or other screenings to students as required and/or authorized by state or federal law and in accordance with other applicable policy.
5. Moody Early Childhood Center shall not collect, disclose, or use a student's personal information for the purpose of marketing or selling that information to third parties. This policy does not apply to or restrict the use of personal information collected from students for the purpose of developing, evaluating, or providing educational products or services offered by Moody Early Childhood Center, for or to students or educational institutions, such as recruiters, book clubs, curriculum and instructional materials used by schools, sale by students of products or services to raise funds for school-related or education-related activities, or student recognition programs, or as otherwise required by law. This policy is also subject to state and federal public information laws and FERPA, that makes some student personal information, defined in this policy as "Directory Information," public.
6. Parents have a right to inspect any instrument used in collection of personal information, described above, before the instrument is administered to the student. Parents should submit such a request to the Principal. The Principal shall provide

reasonable access to parents within a reasonable period of time, as determined by the Principal. Upon a parent's request to inspect such an instrument, the parent's child shall not participate until the parent has had a reasonable opportunity to inspect the instrument, as determined by the Principal.

The Superintendent shall ensure that parents are provided reasonable notice of the adoption or continued use of these policies. Such notice shall be provided directly to the parents of the students in attendance at Moody Early Childhood Center. At a minimum, Moody Early Childhood Center shall:

1. Provide notice at least annually, at the beginning of the school year and within a reasonable time after any substantive change in the policies; and
2. Offer an opportunity for the parent to opt the student out of participation in an activity described above.

i) Request Procedure

Moody Early Childhood Center must permit parents to inspect and review education records related to their children that are collected, maintained, or used by the Moody Early Childhood Center under the IDEA. Moody Early Childhood Center must comply with the request without unnecessary delay and before any meeting regarding an IEP, any due process hearing, or resolution session, and in no case more than 45 days after the request has been made.

j) Destruction of Records

Moody Early Childhood Center shall not destroy any education records if there is an outstanding request to inspect and review the records.

k) De-Identified Records

Moody Early Childhood Center, or a party that has received education records or information from education records, may release the records or information without the parent's written consent after the removal of all personally identifiable information provided that Moody Early Childhood Center or other party has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information.

l) Education Research

Moody Early Childhood Center, or a party that has received education records or information from education records, may release de-identified student level data from education records for

the purpose of education research by attaching a code to each record that may allow the recipient to match information received from the same source, provided that:

1. Moody Early Childhood Center or other party that releases de-identified data under this section does not disclose any information about how it generates and assigns a record code, or that would allow a recipient to identify a student based on a record code;
2. The record code is used for no purpose other than identifying a de-identified record for purposes of education research and cannot be used to ascertain personally identifiable information about a student; and
3. The record code is not based on a student's social security number or other personal information.

m) Authenticating Requestors' Identities

Moody Early Childhood Center must use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom Moody Early Childhood Center discloses personally identifiable information from education records.

n) Transfer Not Permitted

Personal information from student education records shall be transferred to a third party only on the condition that such party will not permit any other party to have access to such information without the written consent of the student's parent. If a third party permits access to information in violation of this policy, Moody Early Childhood Center shall not permit access to information from education records to that third party for a period of not less than five years.

Moody Early Childhood Center shall inform a party to whom a disclosure is made of the requirements of 34 CFR 99.33, unless the disclosure is made pursuant to a court order, lawfully issued subpoena, or litigation; the disclosed information is directory information; the disclosure concerns sex offenders; or the disclosure is made to a parent of a student who is not an eligible student or to a student.

Moody Early Childhood Center may disclose personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of Moody Early Childhood Center if:

1. The disclosures meet the requirements of 34 CFR 99.31; and
2. Moody Early Childhood Center has complied with the requirements of 34 CFR 99.32(b) regarding the record of disclosure; or a state or local educational authority or federal official or agency listed requesting information through a subpoena or ex parte order has complied with the requirements of 34 CFR 99.32(b)(2).

o) Record of Access to Student Records

Each campus shall maintain a record, kept with the education record of each student, that indicates all individuals, agencies, or organizations that have requested or obtained access to a student's education records, as well as the names of state and local educational authorities and federal officials and agencies listed in 34 CFR 99.31(a)(3) that may make further disclosures of personally identifiable information from the student's education records without consent. Moody Early Childhood Center must obtain a copy of the record of further disclosures maintained by the named authorities, officials, and agencies under 34 CFR 99.32(b)(2) and make it available in response to a parent's request to review the record.

Moody Early Childhood Center must record the following information when it discloses personally identifiable information from education records under the health or safety emergency exception (see Section 2-d-viii above):

1. The articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and
2. The parties to whom Moody Early Childhood Center disclosed the information.

The records shall include at least the name of the person or agency that made the request and the legitimate interest the person or agency had in the information. The record will be maintained as long as Moody Early Childhood Center maintains the student's education record. The record of access shall be available only to parents, school officials responsible for custody of the records, and those state, local, and federal officials authorized to audit the operation of the system.

The record shall not include requests for access by, or access granted to, parents of the student or officials of Moody Early Childhood Center, requests accompanied by prior written consent of the parent, requests for directory information, or a party seeking or receiving records in accordance with a subpoena or ex parte order.

p) Right to Amend Records

The parent of a student whose records are covered by this policy may ask Moody Early Childhood Center to amend the student's record if the parent believes it contains information that is inaccurate, misleading, or in violation of the student's right of privacy or other rights. If Moody Early Childhood Center decides not to amend the education records requested, it shall inform the parent of its decision and his or her right to a hearing to challenge the content of the student's education records.

If Moody Early Childhood Center decides to amend the records as a result of the hearing, it shall inform the parent in writing. If, as a result of the hearing, Moody Early Childhood Center decides not to amend the records, it shall inform the parent of the right to place a statement in the records commenting on the contested information and/or stating why the parent disagrees with the decision of Moody Early Childhood Center. Any explanation shall be maintained with the contested part of the record for as long as the record is maintained and shall be disclosed whenever the contested portion of the record is disclosed.

q) Fees for Copies

No fee shall be charged to search for or to retrieve the education records of a student. A fee may be charged for copies of education records that are made for the parents or students under this policy provided that the fee does not effectively prevent them from exercising their right to inspect and review those records. Hardship cases shall be dealt with on an individual basis.

r) Records of Students with Disabilities

Moody Early Childhood Center shall permit parents to inspect and review education records collected, maintained, or used for purposes of identifying, evaluating, placing, or educating students with disabilities.

i. Access Rights

In addition to policies applicable to all student records, the following guidelines shall apply when parents of a student with disabilities request to review or inspect school records relating to the education of their child:

1. Parents may request that a representative inspect and review the records.
2. Moody Early Childhood Center shall comply with a request without unnecessary delay and before any meeting regarding an IEP or hearing relating to the identification, evaluation, or placement of the child, and in no case longer than 45 days after the request.
3. Moody Early Childhood Center shall keep a record of persons obtaining access to these student records (except access by parents and authorized employees), including name, date of access, and the purpose for which the person is authorized to use the records.

ii. List of Types and Locations of Information

Moody Early Childhood Center shall provide parents on request a list of types and locations of education records.

iii. Parental Consent

Parental consent must be obtained before personally identifiable information is used for any purpose other than meeting a requirement under the IDEA or disclosed to anyone other than officials of agencies collecting or using this information. Moody Early Childhood Center may not release information from these records without parental consent except as provided in FERPA.

iv. Confidentiality

Moody Early Childhood Center shall protect the confidentiality of personally identifiable information in collection, storage, disclosure, and destruction of records. One official in Moody Early Childhood Center shall assume responsibility for ensuring confidentiality of personally identifiable information. All persons collecting or using this information shall receive training or instruction concerning the legal requirements involved in handling these records. Moody Early Childhood Center shall maintain for public inspection a current listing of the names and positions of employees who may have access to this information.

v. Destruction of Information

Moody Early Childhood Center shall inform parents when personally identifiable information collected, maintained, or used to provide special education and related services is no longer needed to provide educational services to the student. Such information shall be destroyed at the request of the parents.

A permanent record of the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

s) Annual Notification of Rights

Moody Early Childhood Center shall give parents of students in attendance and eligible students in attendance annual notification of their rights under FERPA.

The notice must inform parents or eligible students that they have the right to:

1. Inspect and review the student's education records;
2. Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;

3. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the Act and 34 CFR 99.31 authorize disclosure without consent; and
4. File with the DOE a complaint under 34 CFR 99.63 and 99.64 concerning alleged failures by Moody Early Childhood Center to comply with the requirements of the Act and 34 CFR part 99.

The notice must include all of the following:

1. The procedure for exercising the right to inspect and review education records.
2. The procedure for requesting amendment of records under 34 CFR 99.20.
3. If Moody Early Childhood Center has a policy of disclosing education records under 34 CFR 99.31(a)(1), a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

Moody Early Childhood Center may provide this notice by any means that are reasonably likely to inform the parents or eligible students of their rights. Moody Early Childhood Center shall effectively notify parents who are disabled and parents of students who have a primary or home language other than English.

t) Custodian of Records

The Superintendent or designee is designated as the custodian of all student records. The Principal of each campus is designated as an agent of the Superintendent or designee for the purposes of the receipt of requests concerning the disclosure of student records.

SEC. 3. DIRECTORY INFORMATION

Certain information about students is considered "directory information" and will be released to anyone who follows procedures for requesting it unless the parent or eligible student objects in writing to its release, within a reasonable time period set by the Superintendent, of receiving notice of FERPA rights. A parent or eligible student may also choose to opt out of the release of directory information at any time during the school year. At any time after restricting the release of directory information, a parent or eligible student may in writing authorize Moody Early Childhood Center to release directory information.

a) Definition

Moody Early Childhood Center has designated the following categories of information as directory information for the purpose of disclosure relating solely to school-sponsored/school-affiliated purposes:

1. Student's name;
2. Address;
3. Telephone listing;
4. Electronic mail address;
5. Photographs (including video images);
6. Date and place of birth;
7. Major field of study;
8. Dates of attendance;
9. Grade level;
10. Participation in officially recognized activities and sports;
11. Weight and height of members of athletic teams;
12. Degrees, honors, and awards received; and
13. The most recent educational agency or institution attended.

“Directory information” does not include a student’s:

1. Social security number; or
2. Student identification number, unless the student identification number, user identification number, or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user’s identity, such as a personal identification number, password, or other factor known or possessed only by the authorized user.

School-sponsored/school-affiliated purposes are those events/activities that Moody Early Childhood Center conducts and/or sponsors to support Moody Early Childhood Center’s educational mission. Examples include, but are not limited to:

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

Moody Early Childhood Center has designated the following categories of information for the purpose of disclosure to military recruiters and institutions of higher education, but only for secondary students:

1. Student’s name;
2. Address;

3. Telephone listing; and
4. E-mail address.

b) Disclosure of Directory Information

Moody Early Childhood Center shall not release directory information except for the purposes indicated above, namely:

1. Disclosure relating to school-sponsored/school-affiliated purposes; and
2. Disclosure to military recruiters and institutions of higher education, but only for secondary students.

c) In Class

A parent or eligible student may not use the right of refusal to opt out of directory information disclosures to prevent Moody Early Childhood Center from disclosing or requiring a student to disclose the student's name, identifier, or institutional e-mail address in a class in which the student is enrolled.

d) Former Students

Moody Early Childhood Center may disclose directory information about former students without satisfying the public notice conditions above. However, Moody Early Childhood Center must continue to honor any valid request to opt out of the disclosure of directory information made while a student was in attendance unless the student rescinds the opt-out request.

e) Confirmation of Identity or Records

Moody Early Childhood Center may not disclose or confirm directory information without meeting the written consent requirements in 34 CFR 99.30 if a student's social security number or other non-directory information is used alone or combined with other data elements to identify or help identify the student or the student's records.

f) Designation of Directory Information

Moody Early Childhood Center may designate as directory information any or all information defined as directory information by FERPA. Directory information under that Act that is not designated by Moody Early Childhood Center as directory information is excepted from disclosure by Moody Early Childhood Center under Government Code Chapter 552.

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

g) Student Recruiting Information

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

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

SEC. 4. INFORMATION FROM LAW ENFORCEMENT

a) Oral Notice of Arrest or Referral

Upon receipt of oral notice from a law enforcement agency that it has arrested a student or referred a student to the juvenile board for a specified offense, the Superintendent shall promptly notify all instructional and support personnel who have responsibility for supervising the student. All personnel shall keep the information received confidential.

b) Written Notice of Arrest or Referral

Upon subsequent receipt of confidential, written notice of the arrest or referral, the Superintendent or designee may send the information in the confidential notice to a School employee having direct supervisory responsibility over the student if the Superintendent or designee determines that the employee needs the information for educational purposes or for the protection of the person informed or others.

c) Oral Notice of Conviction or Adjudication

Upon receipt of oral notice from a prosecuting attorney of a student's conviction, deferred prosecution, or adjudication of a specified offense, including a statement as to whether the student is required to register as a sex offender, the Superintendent shall, within 24 hours of receiving the notice, notify all instructional and support personnel who have regular contact with the student.

d) Notice of Transfer or Reenrollment

Upon receipt of notice from a parole, probation, or community supervision office having jurisdiction over a student that a student has transferred or reenrolled, the Superintendent shall, within 24 hours of receiving the notice, notify all instructional and support personnel who have regular contact with the student.

A person who receives information described above shall not disclose it except as specifically authorized by Code of Criminal Procedure 15.27.

Information received by Moody Early Childhood Center under this provision shall not be attached to the permanent academic file of the student who is the subject of the report. Moody Early Childhood Center shall destroy the information at the end of the academic year in which the report was filed.

e) Duty to Flag Records

Upon receipt of notification from a law enforcement agency or the missing children and missing persons information clearinghouse that a child under 11 years of age who attended or who is enrolled in Moody Early Childhood Center is missing, Moody Early Childhood Center shall flag the child's records and maintain the records in its possession so that on receipt of a request regarding the child, Moody Early Childhood Center will be able to notify law enforcement or the missing children and missing persons information clearinghouse that a request for a flagged record has been made.

i. Request in Person

When a request for a flagged record is made in person, Moody Early Childhood Center may not advise the requesting party that the request concerns a missing child and shall:

1. Require the person requesting the flagged record to complete a form stating the person's name, address, telephone number, and relationship to the child for whom a request is made, and the name, address, and birth date of the child;
2. Obtain a copy of the requesting party's driver's license or other photographic identification, if possible;
3. If the request is for a birth certificate, inform the requesting party that a copy of a certificate will be sent by mail; and
4. Immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and include a physical description of the requesting party, the

identity and address of the requesting party, and a copy of the requesting party's driver's license or other photographic identification.

After providing the information listed above, Moody Early Childhood Center shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

ii. Request in Writing

When a request for a flagged record is made in writing, Moody Early Childhood Center may not advise the requesting party that the request concerns a missing child and shall immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and provide to the law enforcement agency a copy of the written request. After providing the notification, Moody Early Childhood Center shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

iii. Removal of Flag

On the return of a missing child under 11 years of age, the law enforcement agency shall notify each school that has maintained flagged records for the child that the child is no longer missing. On receipt of this notification, Moody Early Childhood Center shall remove the flag from the records.

A school that has reason to believe that a missing child has been recovered may request confirmation that the missing child has been recovered from the appropriate law enforcement agency or the missing children and missing persons information clearing-house. If a response is not received after the 45th day after the date of the request for confirmation, Moody Early Childhood Center may remove the flag from the record and shall inform the law enforcement agency or the missing children and missing persons information clearing-house that the flag has been removed.

SEC. 5. ACCESS TO RECORDS UNDER THE IDEA

The IDEA grants parents the right to inspect and review all educational records with respect to the identification, evaluation, educational placement, and the provision of FAPE to the child. 34 CFR § 300.501(a). Moody Early Childhood Center must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the district under the IDEA. Moody Early Childhood Center must comply with the request without unnecessary delay and before any meeting regarding an IEP, any due process hearing, or resolution session, and in no case more than 45 days after the request has been made. 34 CFR § 300.613(a).

SEC. 1. DEFINITIONS

a) “Records”

The term “records” means all documents, papers, letters, books, maps, photographs, sound or video recordings, microfilm, magnetic tape, electronic media, or other recording media, regardless of physical form or characteristic, and regardless of whether public access to it is open or restricted under the laws of the state, created or received by Moody Early Childhood Center, or any of its officers or employees pursuant to law or in the transaction of public business, are hereby declared to be the records of Moody Early Childhood Center and shall be created, maintained, and disposed of in accordance with the provisions of this ordinance or procedures authorized by it and in no other manner.

The term “records” does not include:

1. Convenience copies: “Extra identical copies of documents created only for convenience of reference or research;”
2. Copies of documents furnished to the public (to fulfill a Public Information Act request).
3. Blank forms/stocks of publications; or
4. Library or museum materials.

b) “Essential Record”

The term “essential record” means any record of Moody Early Childhood Center necessary to the resumption or continuation of operations of Moody Early Childhood Center in an emergency or disaster, to the recreation of the legal and financial status of Moody Early Childhood Center, or to the protection and fulfillment of obligations to the people of the state.

c) “Records Management”

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

d) “Records Liaison Officers”

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The term “records liaison officers” means the persons designated under Section 9 of this policy.

e) “Records Management Committee”

The term “records management committee” means the committee established under Section 5 of this policy.

f) “Records Management Officer”

The term “records management officer” means the person designated in Section 4 of this policy.

g) “Records Management Plan”

The term “records management plan” means the plan developed under Section 6 of this policy.

SEC. 2. RECORDS DECLARED PUBLIC PROPERTY

All records as defined in Section 1 of this policy are hereby declared to be the property of Moody Early Childhood Center. No official or employee of Moody Early Childhood Center has, by virtue of his or her position, any personal or property right to such records, even though he or she may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited.

SEC. 3. POLICY

It is hereby declared to be the policy of Moody Early Childhood Center to provide for efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all records of this office through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition, consistent with the requirements of the Local Government Records Act and accepted records management practice.

SEC. 4. RECORDS MANAGEMENT OFFICER

<<Title>> will serve as Records Management Officer for Moody Early Childhood Center as provided by law, and will ensure that the maintenance, destruction, electronic storage, or other disposition of the records of this office are carried out in accordance with the requirements of the Local Government Records Act.

SEC. 5. ESTABLISHMENT OF RECORDS MANAGEMENT COMMITTEE; DUTIES

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

1. A Human Resource Department Supervisor; and
2. A financial officer for Moody Early Childhood Center; and
3. An executive or administrative officer for Moody Early Childhood Center

The committee shall:

1. Assist the Records Management Officer in the development of policies and procedures governing the records management program;
2. Review the performance of the program on a regular basis and propose changes and improvements if needed;
3. Review and approve records control schedules submitted by the Records Management Officer;
4. Give final approval to the destruction of records in accordance with approved records control schedules; and
5. Actively support and promote the records management program throughout Moody Early Childhood Center.

SEC. 6. RECORDS MANAGEMENT PLAN TO BE DEVELOPED; APPROVAL OF PLAN; AUTHORITY OF PLAN

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

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

SEC. 7. DUTIES OF RECORDS MANAGEMENT OFFICER

In addition to other duties assigned in this policy, the Records Management Officer shall:

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1. Administer the records management program and provide assistance to department heads in its implementation;
2. Plan, formulate, and prescribe records disposition policies, systems, standards, and procedures;
3. In cooperation with Principals and department heads, identify essential records and establish a disaster plan for each Moody Early Childhood Center campus and department to ensure maximum availability of the records in order to re-establish operations quickly and with minimum disruption and expense;
4. Develop procedures to ensure the permanent preservation of the historically valuable records of Moody Early Childhood Center;
5. Establish standards for filing and storage equipment and for record keeping supplies;
6. Study the feasibility of and, if appropriate, establish a uniform filing system and a forms design and control system for Moody Early Childhood Center;
7. Provide records management advice and assistance to all Moody Early Childhood Center departments by preparing a manual or manuals of procedure and policy and by on-site consultation;
8. Monitor records retention schedules and administrative rules issued by the Texas State Library and Archives Commission to determine if the records management program and Moody Early Childhood Center's records control schedules are in compliance with state regulations;
9. Disseminate to the Board, department heads, and Principals information concerning state laws and administrative rules relating to local government records;
10. Instruct Records Liaison Officers and other personnel in policies and procedures of the records management plan and their duties in the records management program;
11. Direct Records Liaison Officers or other personnel in the conduct of records inventories in preparation for the development of records control schedules as required by state law and this policy;
12. Ensure that the maintenance, preservation, microfilming, destruction, or other disposition of Moody Early Childhood Center records is carried out in accordance with the policies and procedures of the records management program and the requirements of state law;
13. Maintain records on the volume of records destroyed under approved records -- control schedules, the volume of records microfilmed or stored electronically, and the estimated cost and space savings as the result of such disposal or disposition;
14. Report annually to the Superintendent on the implementation of the records management plan in each department of Moody Early Childhood Center; and
15. Bring to the attention of the Superintendent non-compliance by department heads, Principals, or other Moody Early Childhood Center personnel with the policies and procedures of the records management program or the Local Government Records Act.

SEC. 8. DUTIES AND RESPONSIBILITIES OF DEPARTMENT HEADS AND PRINCIPALS

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

1. Cooperate with the Records Management Officer in carrying out the policies and procedures established by Moody Early Childhood Center for the efficient and economical management of records and in carrying out the requirements of this policy;
2. Adequately document the transaction of government business and the services, programs, and duties for which the department head, principal, and his or her staff are responsible; and
3. Maintain the records in his or her care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the records management program of Moody Early Childhood Center and the requirements of this policy.

SEC. 9. DESIGNATION OF RECORDS LIAISON OFFICERS

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

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

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

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

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

SEC. 10. DUTIES AND RESPONSIBILITIES OF RECORDS LIAISON OFFICERS

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

1. Conduct or supervise the conduct of inventories of the records of the department in preparation for the development of records control schedules;
2. In cooperation with the Records Management Officer, coordinate and implement the policies and procedures of the records management program in their department; and

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

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

1. The Records Management Officer, in cooperation with department heads, Principals, and Records Liaison Officers, shall prepare records control schedules on a department by department basis, listing all records created or received by the department and the retention period for each record. Records control schedules shall also contain such other information regarding the disposition of Moody Early Childhood Center records as the records management plan may require.
2. Each records control schedule shall be monitored and amended as needed by the Records Management Officer on a regular basis to ensure that it is in compliance with records retention schedules issued by the state, and that it continues to reflect the record keeping procedures and needs of the department and the records management program of Moody Early Childhood Center.
3. Before its adoption, a records control schedule or amended schedule for a department must be approved by the department head or Principal and the members of the Records Management Committee.
4. Before its adoption, a records control schedule must be submitted to and accepted for filing by the director and librarian as provided by state law. If a schedule is not accepted for filing, the schedule shall be amended to make it acceptable for filing. The Records Management Officer shall submit the records control schedules to the director and librarian.

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

1. A records control schedule for a department that has been approved and adopted under Section 11 shall be implemented by department heads, principals and Records Liaison Officers according to the policies and procedures of the records management plan.
2. A record whose retention period has expired on a record control schedule shall be destroyed unless an open records request is pending on the record, the subject matter of the records is pertinent to a pending lawsuit, or the department head or principal requests in writing to the Records Management Committee that the record be retained for an additional period.
3. Prior to the destruction of a record under an approved records control schedule, authorization for the destruction must be obtained by the Records Management Officer from the Records Management Committee.

SEC. 13. DESTRUCTION OF UNSCHEDULED RECORDS

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A record that has not yet been listed on an approved records control schedule may be destroyed if its destruction has been approved in the same manner as a record destroyed under an approved schedule and the Records Management Officer has submitted to and received back from the director and librarian an approved destruction authorization request.

SEC. 14. CONTRACT SERVICES

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

SEC. 15. RECORD OF ACCESS

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

SEC. 1. BEHAVIOR MANAGEMENT TECHNIQUES

It is Moody Early Childhood Center's policy to treat all students with dignity and respect, including students with disabilities who receive special education services. Any behavior management technique and/or discipline management practice must be implemented in such a way as to protect the health and safety of the student and others. No discipline management practice may be calculated to inflict injury, cause harm, demean, or deprive the student of basic human necessities.

Education Code 37.0021(a); 19 TAC 89.1053(a), (j).

Exceptions. Education Code 37.0021 (regarding use of confinement, seclusion, restraint, and time-out) does not apply to:

1. A peace officer, while performing law enforcement duties, except as provided by Education Code 37.0021(i); and
2. An educational services provider with whom a student is placed by a judicial authority unless the services are provided in a Moody Early Childhood Center educational program.

Education Code 37.0021(g).

SEC. 2. CONFINEMENT

A student with a disability who receives special education services may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique. *Education Code 37.0021(a).*

Education Code 37.0021 does not prevent a student's locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:

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

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

Education Code 37.0021(f), 37.007(a)(1); Penal Code 46.01(1), (3), (6), 46.05.

SEC. 3. SECLUSION

A Moody Early Childhood Center employee or volunteer or an independent contractor of Moody Early Childhood Center may not place a student in seclusion. “Seclusion” means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:

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

Education Code 37.0021(b)(2), (c).

SEC. 4. RESTRAINT

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

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

19 TAC 89.1053(c).

a) *Definitions*

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

Education Code 37.0021(b)(1); 19 TAC 89.1053(b)(2).

“Restraint” does not include the use of:

1. Physical contact or appropriately prescribed adaptive equipment to promote normative body positioning and/or physical functioning;
2. Limited physical contact with a child to promote safety (*e.g.*, holding a student’s hand), to prevent a potentially harmful action (*e.g.*, running into the street), to teach a skill, or to provide comfort;

3. Limited physical contact or appropriately prescribed adaptive equipment to prevent a child from engaging in ongoing, repetitive self-injurious behaviors; or
4. Seat belts and other safety equipment used to secure children during transportation.

19 TAC 89.1053(f).

“Emergency” means a situation in which a student’s behavior poses a threat of:

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

19 TAC 89.1053(b)(1).

b) Training

Training for Moody Early Childhood Center employees, volunteers, or independent contractors regarding the use of restraint shall be provided according to the requirements set forth at 19 TAC 89.1053(d).

c) Data Reporting

Cumulative data regarding the use of restraint must be electronically reported through the Public Education Information Management System in accordance with reporting standards specified by the Texas Education Agency.

Education Code 37.0021(i); 19 TAC 89.1053(f),(k).

d) Documentation

In a case in which restraint is used by Moody Early Childhood Center employees, volunteers, or independent contractors, Moody Early Childhood Center shall comply with the documentation requirements set forth at 19 TAC 89.1053(e).

SEC. 5. TIME-OUT

A Moody Early Childhood Center employee, volunteer, or independent contractor may use time-out with the following limitations:

1. Physical force or threat of physical force shall not be used to place a student in time-out;
2. Time-out must only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student’s

individualized education program (“IEP”) and/or behavior intervention plan (“BIP”) if it is utilized on a recurrent basis to increase or decrease targeted behavior; and

3. Use of time-out shall not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student’s IEP.

19 TAC 89.1053(b)(3), (g).

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

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

Education Code 37.0021(b)(3); 19 TAC 89.1053(b)(3).

a) Training

Training for Moody Early Childhood Center employees, volunteers, or independent contractors regarding the use of time-out shall be provided according to the requirements set forth at 19 TAC 89.1053(h).

b) Documentation

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

19 TAC 89.1053(i).

SEC. 6. PROHIBITED AVERSIVE TECHNIQUES

Moody Early Childhood Center and employees, volunteers, and independent contractor of Moody Early Childhood Center may not apply an aversive technique, or by authorization, order, or consent, cause an aversive technique to be applied, to a child.

Education Code 37.0023(b).

“Aversive technique” means a technique or intervention that is intended to reduce the likelihood of a behavior reoccurring by intentionally inflicting on a student significant physical or emotional discomfort or pain. The term includes a technique or intervention that:

1. is designed to or likely to cause physical pain, other than an intervention or technique permitted under Section 37.0011;
2. notwithstanding Section Section 37.0011, is designed to or likely to cause physical pain through the use of electric shock or any procedure that involves the use of pressure points or joint locks;
3. involves the directed release of a noxious, toxic, or otherwise unpleasant spray, mist, or substance near the student's face;
4. denies adequate sleep, air, food, water, shelter, bedding, physical comfort, supervision, or access to a restroom facility;
5. ridicules or demeans the student in a manner that adversely affects or endangers the learning or mental health of the student or constitutes verbal abuse;
6. employs a device, material, or object that simultaneously immobilizes all four extremities, including any procedure that results in such immobilization known as prone or supine floor restraint;
7. impairs the student's breathing, including any procedure that involves:
 - a. applying pressure to the student's torso or neck; or
 - b. obstructing the student's airway, including placing an object in, on, or over the student's mouth or nose or placing a bag, cover, or mask over the student's face;
8. restricts the student's circulation;
9. secures the student to a stationary object while the student is in a sitting or standing position;
10. inhibits, reduces, or hinders the student's ability to communicate;
11. involves the use of a chemical restraint;
12. constitutes a use of time-out that precludes the student from being able to be involved in and progress appropriately in the required curriculum and, if applicable, toward the annual goals included in the student's individualized education program, including isolating the student by the use of physical barriers; or
13. except as provided by Section 37.0023 (c), deprives the student of the use of one or more of the student's senses.

Education Code 37.0023(a).

SEC. 1. DEFINITIONS

For purposes of this policy, the following terms will have the meanings set forth below:

“**Parent**” means a person standing in parental relation to a child, including a guardian, and whose child receives special education and related services and is assigned to one or more self-contained classrooms or other special education settings for at least 50 percent of the instructional day.

“**Staff member**” means a teacher, related service provider, paraprofessional, counselor, or educational aide assigned to work in a self-contained classroom or other special education setting.

“**Board**” means a majority of the Moody Early Childhood Center Board of Directors.

“**School business day**” means a day that campus or Moody Early Childhood Center administrative offices are open.

“**Time-Out**” has the meaning assigned by Education Code 37.0021.

“**Self-contained classroom**” means a classroom on a regular Moody Early Childhood Center campus (*i.e.*, a campus that serves students in general education and students in special education) in which a majority of the students in regular attendance are provided special education and related services and have one of the following instructional arrangements/settings described in the Student Attendance Accounting Handbook adopted by the Texas Education Agency (“TEA”):

1. self-contained (mild/moderate/severe) regular campus;
2. full-time early childhood (preschool program for children with disabilities) special education setting;
3. residential care and treatment facility--self-contained (mild/moderate/severe) regular campus;
4. residential care and treatment facility--full-time early childhood special education setting;
5. off home campus--self-contained (mild/moderate/severe) regular campus; or
6. off home campus--full-time early childhood special education setting.

“**Other special education setting**” means a classroom on a separate Moody Early Childhood Center campus (*i.e.*, a campus that serves only students who receive special education and related services) in which a majority of the students in regular attendance are provided special education and related services and have one of the following instructional arrangements/settings described in the Student Attendance Accounting Handbook adopted by the TEA:

1. residential care and treatment facility--separate campus; or
2. off home campus--separate campus.

“**Incident**” means an event or circumstance that involves alleged “abuse” or “neglect,” as those terms are described in Texas Family Code Section 261.001, of a student by a Moody Early Childhood Center employee or alleged “physical abuse” or “sexual abuse,” as those terms are described in Texas Family Code Section 261.410, of a student by another student; and allegedly occurred in a self-contained classroom or other special education setting in which video surveillance is conducted under Texas Education Code Section 29.022.

SEC. 2. PROMOTION OF STUDENT SAFETY

Moody Early Childhood Center will, upon receipt of a written request authorized by this policy, provide equipment, including a video camera, to the school or schools specified in the request

A school or campus that receives equipment due to a video surveillance request shall place, operate, and maintain one or more video cameras in self-contained classrooms and other special education settings in which a majority of the students in regular attendance are provided special education and related services and are assigned to one or more self-contained classrooms or other special education settings for at least 50 percent of the instructional day.

Moody Early Childhood Center may not:

1. allow regular or continual monitoring of video recorded under this policy; or
2. use video recorded under this policy for routine teacher evaluation or monitoring or for any purpose other than the promotion of student safety.

SEC. 3. PROCEDURES FOR REQUESTING VIDEO SURVEILLANCE

Video surveillance under this policy is for the purpose of promoting student safety in certain self-contained classrooms and other special education settings.

a) Parent Request

A parent may request in writing that equipment be provided to the school or campus at which the parent’s child receives special education services in one or more self-contained classrooms or other special education settings.

b) Board Request

The Board may request in writing that equipment be provided to one or more specified schools or campuses at which one or more children receive special education services in self-contained classrooms or other special education settings.

c) Principal or Assistant Principal Request

The Principal or Assistant Principal of a school or campus at which one or more children receive special education services in self-contained classrooms or other special education settings may request in writing that equipment be provided to the Principal's or Assistant Principal's school or campus.

d) Staff Member Request

A staff member assigned to work with one or more children receiving special education services in a self-contained classroom or other special education settings may request in writing that equipment be provided to the school or campus at which the staff member works.

e) Additional Procedures

A school or campus that receives equipment as a result of the request of a parent or staff member is required to place equipment only in classrooms or settings in which the parent's child is in regular attendance or to which the staff member is assigned, as applicable.

A school or campus that receives equipment as a result of the request by the Board, Principal, or Assistant Principal is required to place equipment only in classrooms or settings identified by the requestor, if the requestor limits the request to specific classrooms or settings.

Moody Early Childhood Center shall designate an administrator (the "Administrator") at the Moody Early Childhood Center Central Office with responsibility for coordinating the provision of equipment to schools and campuses in compliance with this policy.

A written request must be submitted and acted on as follows:

1. A parent, staff member, or Assistant Principal must submit a request to the Principal or designee of the school or campus addressed in the request, and the Principal or designee must provide a copy of the request to the Administrator.
2. A Principal must submit a request by the Principal to the Administrator.
3. The Board must submit a request to the Administrator, and the Administrator must provide a copy of the request to the Principal or designee of the school or campus addressed in the request.

Moody Early Childhood Center shall provide a response to a request not later than the seventh school business day after receipt of the request by the person to whom it must be submitted that either authorizes the request or states the reason for denying the request. Unless granted an extension by the TEA, the school or campus must begin operation of a video camera in compliance with this policy not later than the 45th school business day, or the first school day after the 45th school business day if that day is not a school day, after the request is authorized.

A parent of a student whose admission, review, and dismissal (“ARD”) committee has determined that the student’s placement for the following school year will be in a classroom or other special education setting in which a video camera may be placed to make a request for the video camera by the later of the date on which the current school year ends, or the 10th school business day after the date of the placement determination by the ARD committee. Unless the TEA grants an extension of time, the school or campus must begin operation of a video camera not later than the later of the 10th school day of the fall semester or the 45th school business day, or the first school day after the 45th school business day if that day is not a school day, after the date the request is made.

SEC. 4. COORDINATION OF EQUIPMENT

The administrator responsible for coordinating equipment delivery to campuses shall be Executive Director or designee.

SEC. 5. ADVANCE WRITTEN NOTICE TO CAMPUS STAFF AND PARENTS

Before Moody Early Childhood Center activates a video camera in a classroom or other special education setting, Moody Early Childhood Center shall provide written notice of the placement to all school or campus staff and to the parents of each student attending class or engaging in school activities in the classroom or setting. This notice shall be in the form of a “Notice of Installation of Video and Audio Recording Equipment” form adopted by the Superintendent or designee, and shall be distributed to all parties prior to the start of recording.

At Moody Early Childhood Center’s discretion, campuses may post a notice at the entrance of any self-contained classroom or other special education setting in which video camera are placed stating that video and audio surveillance are conducted in the classroom or setting.

SEC. 6. TIMES OF OPERATION

Cameras shall be operational at all times during the instructional day when students are in the self-contained classroom or other special education setting.

A school or campus that places a video camera in a classroom or other special education setting shall operate and maintain the video camera in the classroom or setting, as long as the classroom or setting continues to satisfy the requirements under this policy, for the remainder of the school year in which the school or campus received the request, unless the requestor withdraws the request in writing.

If for any reason a school or campus will discontinue operation of a video camera during a school year, not later than the fifth school day before the date the operation of the video camera will be discontinued, the school or campus must notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue unless requested by a person eligible to make a request.

Not later than the 10th school day before the end of each school year, the school or campus must notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue during the following school year unless a person eligible to make a request for the next school year submits a new request.

This policy applies to placement, operation, and maintenance of a video camera in a self-contained classroom or other special education setting during the regular school year and extended school year services.

SEC. 7. RESTRICTIONS ON VIDEO RECORDING

Video cameras must be capable of covering all areas of the classroom or other special education setting, including a room attached to the classroom or setting used for time-out. Video cameras must also be capable of recording audio from all areas of the classroom or other special education setting, including a room attached to the classroom or setting used for time-out.

The inside of a bathroom or any area in the classroom or other special education setting in which a student's clothes are changed may not be visually monitored, except for incidental coverage of a minor portion of a bathroom or changing area because of the layout of classroom or setting.

SEC. 8. RETENTION OF RECORDINGS

Moody Early Childhood Center shall retain video recordings from a video camera placed under this policy for at least three months after the date the video was recorded.

If a person described in Section 8-a (Requests to View a Video Recording) as eligible to receive a copy of a video requests to view a video recording from a video camera placed under this policy, Moody Early Childhood Center must retain the recording from the date of receipt of the request until the person has viewed the recording and a determination has been made as to

whether the recording documents an alleged incident. If the recording documents an alleged incident, Moody Early Childhood Center shall retain the recording until the alleged incident has been resolved, including the exhaustion of all appeals.

A video recording under this policy is a governmental record only for purposes of 37.10, Penal Code.

SEC. 9. CONFIDENTIALITY OF VIDEO RECORDINGS

A video recording of a student is confidential and may not be released or viewed except as provided by Texas Education Code Section 29.022; the Family Educational Rights and Privacy Act of 1974 (“FERPA”); or other applicable law.

a) Requests to View a Video Recording

Moody Early Childhood Center will release a recording for viewing by:

1. A Moody Early Childhood Center employee who is involved in an alleged incident that is documented by the recording and has been reported to Moody Early Childhood Center, on request of the employee;
2. A parent of a student who is involved in an alleged incident that is documented by the recording and has been reported to Moody Early Childhood Center, on request of the parent;
3. Appropriate Department of Family and Protective Services (“DFPS”) personnel as part of an investigation under Section 261.406, Family Code;
4. A peace officer, a school nurse, a district-level or campus-level administrator trained in de-escalation and restraint techniques as provided by commissioner rule, or a human resources staff member designated by the Board in response to a report of an alleged incident or an investigation of Moody Early Childhood Center personnel or a report of alleged abuse committed by a student; or
5. Appropriate TEA or State Board for Educator Certification personnel or agents as part of an investigation.

A contractor or employee performing job duties relating to the installation, operation, or maintenance of video equipment or the retention of video recordings who incidentally views a video recording is not in violation of this policy.

If a person described by subsections (4) or (5) above who views the video recording believes that the recording documents a possible violation under Subchapter E, Chapter 261, Family Code, the person shall notify the DFPS for investigation in accordance with Family Code Section 261.406.

If any person described by subsections (3), (4), or (5) above who views the recording believes that the recording documents a possible violation of Moody Early Childhood Center policy, the person may allow access to the recording to appropriate legal and human resources personnel. A recording believed to document a possible violation of Moody Early Childhood Center policy relating to the neglect or abuse of a student may be used as part of a disciplinary actions against Moody Early Childhood Center personnel and shall be released at the request of the student's parent in a legal proceeding.

If Moody Early Childhood Center determines that the recording is an "education record," Moody Early Childhood Center shall release the recording in accordance with FERPA. State law does not limit the access of a student's parent to a record regarding the student under FERPA or other law.

In order to review recordings for potential release, and operation and maintenance of the equipment, the following individuals shall have access to the video equipment: list out titles/departments that may have access to video equipment.

SEC. 10. PROCEDURES FOR REPORTING A COMPLAINT AND/OR REQUESTING TO VIEW RECORDING

Video and audio recording equipment shall be used for safety purposes to access documented, specific incidents. To report a complaint of alleged abuse or neglect to Moody Early Childhood Center and/or to request to view a recording allowed by Section 8 above, a written "Incident Report Form," as adopted by the Superintendent or designee, shall be used by the requestor. This form will be completed to the extent of known information, and returned to the Superintendent or designee for validation.

SEC. 11. GRIEVANCE PROCEDURES

The special education dispute resolution procedures in 34 C.F.R. 300.151-300.153 and 300.504-300.515, do not apply to complaints alleging that Moody Early Childhood Center has failed to comply with Education Code Section 29.022. Complaints alleging violations of Moody Early Childhood Center's video surveillance obligations for special education settings under Education Code Section 29.022 must be addressed through Moody Early Childhood Center's Student and Parent Grievance Process , as adopted by the Board.

Moody Early Childhood Center, a parent, staff member, or an administrator may request an expedited review by the TEA of Moody Early Childhood Center's (1) denial of a request, (2) request for an extension of time to begin operation of a video camera, or (3) determination to not release a video recording to an individual. If Moody Early Childhood Center, a parent, staff

member or administrator requests an expedited review, the TEA shall notify all other interested parties of the request.

If an expedited review has been requested, the TEA shall issue a preliminary judgment as to whether Moody Early Childhood Center is likely to prevail on the issue under a full review by the TEA. If the TEA determines Moody Early Childhood Center is not likely to prevail, Moody Early Childhood Center must fully comply with the policy notwithstanding an appeal of the TEA's decision. The TEA shall notify the requestor and Moody Early Childhood Center, if Moody Early Childhood Center is not the requestor, of the TEA's determination.

SEC. 12. FUNDING

Moody Early Childhood Center may solicit and accept gifts, grants, and donations from any person to implement the requirements in Education Code Section 29.022. Moody Early Childhood Center is not permitted to use Individuals with Disabilities Education Act, Part B, funds or state special education funds to implement the requirements of Education Code Section 29.022.

SEC. 13. NO WAIVER OF IMMUNITY

The requirements described by this policy do not:

1. Waive any immunity from liability of Moody Early Childhood Center, or of Moody Early Childhood Center officers or employees; or
2. Create any liability for a cause of action against Moody Early Childhood Center or against Moody Early Childhood Center officers or employees.

MOODY EARLY CHILDHOOD CENTER

**FINANCIAL STATEMENTS, INDEPENDENT AUDITOR'S REPORT
REQUIRED BY GOVERNMENT AUDITING STANDARDS AND
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
As of and for the Years Ended August 31, 2022 and 2021**

DRAFT

**MOODY EARLY CHILDHOOD CENTER
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INDEPENDENT AUDITOR'S REPORT

To the Board of Directors of
Moody Early Childhood Center
Galveston, Texas

Opinion

We have audited the accompanying financial statements of Moody Early Childhood Center (the "Center"), a Texas non-profit corporation, which comprise the Statements of Financial Position as of August 31, 2022 and 2021, and the related Statements of Activities and Changes in Net Assets, Functional Expenses and Cash Flows for the years then ended, and the related notes to the financial statements.

In our opinion, the accompanying financial statements referred to above present fairly, in all material respects, the financial position of the Center as of August 31, 2022 and 2021, and the results of its operations and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audits in accordance with auditing standards generally accepted in the United States of America ("U.S. GAAS"). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are independent of the Center and have fulfilled our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits, which include relevant ethical requirements in the United States of America. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Center's ability to continue as a going concern within one year after the date that the financial statements are issued or available to be issued.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with U.S. GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

INDEPENDENT AUDITOR'S REPORT, CONTINUED

In performing an audit in accordance with U.S. GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Center's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Center's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

Other Matters – Other Information

Our audit was conducted for the purpose of forming an opinion on the financial statements as a whole. The accompanying Schedule of Expenditures of Federal Awards, as required by Title 2 U.S. *Code of Federal Regulations* ("CFR") Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, is presented for purposes of additional analysis and is not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with U.S. GAAS. In our opinion, the information is fairly stated, in all material respects, in relation to the financial statements as a whole.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated **May __, 2023** on our consideration of the Center's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and on our tests of its compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Center's internal control over financial reporting or compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Center's internal control over financial reporting and compliance.

Houston, Texas
May __, 2023

MOODY EARLY CHILDHOOD CENTER
STATEMENTS OF FINANCIAL POSITION
AUGUST 31, 2022 AND 2021

	2022	2021
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 1,317,741	\$ 878,482
Restricted cash	281,385	69,999
Receivables:		
Contributions	1,966,666	1,966,666
Tuition, net	204,580	303,830
Total receivables	2,171,246	2,270,496
Prepaid expenses	37,772	24,488
Total current assets	3,808,144	3,243,465
Contributions receivable, net	3,805,693	5,772,359
Property and equipment, net	559,863	650,354
Total assets	\$ 8,173,700	\$ 9,666,178
LIABILITIES AND NET ASSETS		
Current liabilities:		
Accounts payable	\$ 6,042	\$ 24,025
Accrued liabilities	282,581	82,405
Paycheck protection program loan	-	633,100
Line of credit	-	283,000
Total current liabilities	288,623	1,022,530
Economic injury disaster loan	744,779	-
Total liabilities	1,033,402	1,022,530
Net assets:		
Without donor restrictions	6,858,913	8,573,649
With donor restrictions	281,385	69,999
Total net assets	7,140,298	8,643,648
Total liabilities and net assets	\$ 8,173,700	\$ 9,666,178

The accompanying notes are an integral part of these financial statements.

MOODY EARLY CHILDHOOD CENTER
STATEMENT OF ACTIVITIES AND CHANGES IN NET ASSETS
FOR THE YEAR ENDED AUGUST 31, 2022

	<u>Without Donor Restrictions</u>	<u>With Donor Restrictions</u>	<u>Total</u>
Revenue and support:			
Contributions	\$ 33,797	\$ -	\$ 33,797
In-kind contributions	1,135,225	-	1,135,225
In-district charter school funding	788,686	-	788,686
Grants	1,130,126	281,385	1,411,511
Tuition, net	598,999	-	598,999
Interest income	3,908	-	3,908
Gain on forgiveness of PPP loan	633,100	-	633,100
Other	17,309	-	17,309
	<hr/>	<hr/>	<hr/>
Revenue before release of restrictions on net assets	4,341,150	281,385	4,622,535
Net assets released from restrictions:			
Program expenditures	69,999	(69,999)	-
	<hr/>	<hr/>	<hr/>
Total revenue and support	4,411,149	211,386	4,622,535
Expenses:			
Program expenses	5,121,359	-	5,121,359
Management and general	1,004,526	-	1,004,526
	<hr/>	<hr/>	<hr/>
Total expenses	6,125,885	-	6,125,885
Change in net assets	(1,714,736)	211,386	(1,503,350)
Net assets at beginning of year	8,573,649	69,999	8,643,648
	<hr/>	<hr/>	<hr/>
Net assets at end of year	<u>\$ 6,858,913</u>	<u>\$ 281,385</u>	<u>\$ 7,140,298</u>

The accompanying notes are an integral part of these financial statements

MOODY EARLY CHILDHOOD CENTER
STATEMENT OF ACTIVITIES AND CHANGES IN NET ASSETS
FOR THE YEAR ENDED AUGUST 31, 2021

	<u>Without Donor Restrictions</u>	<u>With Donor Restrictions</u>	<u>Total</u>
Revenue and support:			
Contributions	\$ 5,851,263	\$ 34,409	\$ 5,885,672
In-kind contributions	1,185,778	-	1,185,778
In-district charter school funding	684,841	-	684,841
Grants	526,006	-	526,006
Tuition, net	609,823	-	609,823
Interest income	2,139	-	2,139
Gain on forgiveness of PPP loan	633,100	-	633,100
Other	11,200	-	11,200
	<hr/>	<hr/>	<hr/>
Revenue before release of restrictions on net assets	9,504,150	34,409	9,538,559
Net assets released from restrictions:			
Program expenditures	191,882	(191,882)	-
	<hr/>	<hr/>	<hr/>
Total revenue and support	9,696,032	(157,473)	9,538,559
Expenses:			
Program expenses	4,715,882	-	4,715,882
Management and general	1,118,712	-	1,118,712
	<hr/>	<hr/>	<hr/>
Total expenses	5,834,594	-	5,834,594
Change in net assets	3,861,438	(157,473)	3,703,965
Net assets at beginning of year	4,712,211	227,472	4,939,683
	<hr/>	<hr/>	<hr/>
Net assets at end of year	<u>\$ 8,573,649</u>	<u>\$ 69,999</u>	<u>\$ 8,643,648</u>

The accompanying notes are an integral part of these financial statements

**MOODY EARLY CHILDHOOD CENTER
STATEMENT OF FUNCTIONAL EXPENSES
FOR THE YEAR ENDED AUGUST 31, 2022**

Description	Program Services	Management and General	Total Expenses
Payroll, benefits, and taxes	\$ 3,563,824	\$ 594,771	\$ 4,158,595
Contract services	17,171	-	17,171
Professional fees	65,837	80,549	146,386
Program materials and services	50,522	-	50,522
Food services	52,347	-	52,347
Transportation	138	-	138
Professional development and training	19,133	6,967	26,100
Rent	982,118	163,907	1,146,025
Insurance	35,457	5,917	41,374
Utilities	1,462	244	1,706
Technology and communication	10,002	1,669	11,671
Supplies	53,926	23,470	77,396
Copying and printing	11,423	1,926	13,349
Advertising	-	19,629	19,629
Community outreach	2,934	-	2,934
Dues and subscriptions	16,592	2,769	19,361
Meeting expense	-	6,912	6,912
Licensing and other fees	-	7,912	7,912
Repairs and maintenance	142,509	23,783	166,292
Depreciation	95,532	15,944	111,476
Interest expense	-	12,724	12,724
Bank charges	-	4,141	4,141
Miscellaneous	432	31,292	31,724
Total expenses	<u>\$ 5,121,359</u>	<u>\$ 1,004,526</u>	<u>\$ 6,125,885</u>

The accompanying notes are an integral part of these financial statements

**MOODY EARLY CHILDHOOD CENTER
STATEMENT OF FUNCTIONAL EXPENSES
FOR THE YEAR ENDED AUGUST 31, 2021**

Description	Program Services	Management and General	Total Expenses
Payroll, benefits, and taxes	\$ 3,134,085	\$ 659,982	\$ 3,794,067
Contract services	92,061	-	92,061
Professional fees	1,196	86,405	87,601
Program materials and services	10,930	1,971	12,901
Food services	37,341	-	37,341
Transportation	39,729	-	39,729
Professional development and training	19,200	3,712	22,912
Rent	979,511	206,267	1,185,778
Insurance	33,013	6,952	39,965
Utilities	34,387	7,241	41,628
Technology and communication	11,516	2,425	13,941
Supplies	124,915	52,694	177,609
Copying and printing	13,332	2,807	16,139
Advertising	-	13,245	13,245
Community outreach	1,377	-	1,377
Dues and subscriptions	14,785	3,113	17,898
Meeting expense	-	863	863
Licensing and other fees	-	1,689	1,689
Repairs and maintenance	73,932	15,569	89,501
Depreciation	93,973	19,789	113,762
Interest expense	-	10,500	10,500
Bank charges	-	4,776	4,776
Miscellaneous	599	18,712	19,311
Total expenses	<u>\$ 4,715,882</u>	<u>\$ 1,118,712</u>	<u>\$ 5,834,594</u>

The accompanying notes are an integral part of these financial statements

MOODY EARLY CHILDHOOD CENTER
STATEMENTS OF CASH FLOWS
FOR THE YEARS ENDED AUGUST 31, 2022 AND 2021

	2022	2021
Cash flows from operating activities:		
Change in net assets	\$ (1,503,350)	\$ 3,703,965
Adjustments to reconcile change in net assets to net cash provided by (used in) operating activities:		
Depreciation expense	111,476	113,762
Gain on forgiveness of PPP loan	(633,100)	(633,100)
Changes in operating assets and liabilities:		
Tuition receivable	-	10,244
Contribution receivable	1,966,666	(3,805,692)
Other receivables	99,250	2,786
Prepaid expenses	(13,284)	(2,131)
Other assets	-	1,832
Accounts payable	(17,983)	2,312
Accrued liabilities	200,176	(1,098)
	<u>209,851</u>	<u>(607,120)</u>
Net cash provided by (used in) operating activities		
Cash flows from investing activities:		
Purchase of property and equipment	(20,985)	-
	<u>(20,985)</u>	<u>-</u>
Net cash used in investing activities		
Cash flows from financing activities:		
Proceeds from paycheck protection program	-	633,100
Proceeds from economic injury disaster loan	2,000,000	-
Payments on economic injury disaster loan	(1,255,221)	-
Payments on line of credit, net	(283,000)	(12,000)
	<u>461,779</u>	<u>621,100</u>
Net cash provided by financing activities		
Net increase in cash, cash equivalents and restricted cash	650,645	13,980
Cash, cash equivalents and restricted cash at beginning of year	948,481	934,501
Cash, cash equivalents and restricted cash at end of year	<u>\$ 1,599,126</u>	<u>\$ 948,481</u>
Supplemental cash flow disclosures:		
Interest paid	<u>\$ 12,724</u>	<u>\$ 10,500</u>

The accompanying notes are an integral part of these financial statements

MOODY EARLY CHILDHOOD CENTER

NOTES TO FINANCIAL STATEMENTS

1. Organization and Purpose

The Moody Early Childhood Center (the "Center") is a Texas not-for-profit corporation originally created on December 11, 2015, under the legal name Galveston Island Day School. On June 2, 2016, the Center changed its legal name to the Moody Early Childhood Center in accordance with stipulations in a grant agreement with The Moody Foundation, a private charitable foundation. On June 20, 2018, the Center entered into a cooperative partnership agreement (the "Agreement") with the Galveston Independent School District ("GISD") under Senate Bill No. 1882, which allowed the Center to operate as an in-district charter school.

The purpose of the Center is to provide education, development, and year-round child care for children six weeks to three years of age in the greater Galveston area. The Center is governed by a Board of Directors and is primarily supported by GISD, private grants and tuition fees. The Center operates in a mixed income setting with approximately 70% of their children receiving subsidies for tuition.

2. Summary of Significant Accounting Policies

Basis of Presentation

The accompanying financial statements of the Center have been prepared using the accrual basis of accounting in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP") and follows the guidance promulgated by the Financial Accounting Standards Board ("FASB") related to financial statements of not-for-profit organizations. Accordingly, net assets and revenues, expenses, gains and losses are classified based on the existence or absence of donor-imposed restrictions. The net assets of the Center and changes therein are classified and reported as follows:

Without Donor Restrictions – Net assets that are not subject to donor-imposed restrictions. Net assets without donor restrictions may be designated for specific purposes by action of the Board of Directors or may otherwise be limited by contractual agreements with outside parties. As of August 31, 2022 and 2021, net assets without donor restrictions were \$6,858,913 and \$8,573,649, respectively.

With Donor Restrictions – Net assets subject to donor-imposed restrictions that are either (i) restricted until the donor-imposed restriction has been met through the passage of time and/or by actions of the Board of Directors, or (ii) expected to be maintained in perpetuity. When a purpose restriction is accomplished, or a time restriction ends, net assets with donor restrictions are released to net assets without donor restrictions. As of August 31, 2022 and 2021, net assets with donor restrictions were \$281,385 and \$69,999, respectively.

Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period, and the allocation of expenses among various functions. Actual results could differ from those estimates.

Cash, Cash Equivalents and Restricted Cash

The Center considers all highly liquid investments with an initial maturity of three months or less when purchased to be cash equivalents. Cash balances may periodically exceed the federal depository insurance limit. However, the Center believes risk of loss is minimal in these accounts due to the strength of the financial institutions in which funds are held.

The following table provides a reconciliation of cash, cash equivalents and restricted cash reported within the statements of financial position to that shown in the statements of cash flows as of August 31, 2022 and 2021:

	<u>2022</u>	<u>2021</u>
Cash and cash equivalents	\$ 1,317,741	\$ 878,482
Restricted cash	281,385	69,999
Total cash, cash equivalents and restricted cash in cash flows	\$ 1,599,126	\$ 948,481

MOODY EARLY CHILDHOOD CENTER

NOTES TO FINANCIAL STATEMENTS

2. Summary of Significant Accounting Policies, continued

Cash, Cash Equivalents and Restricted Cash, continued

Amounts included in restricted cash at August 31, 2022 represent cash contributions received that are restricted for scholarships and family engagement.

Amounts included in restricted cash at August 31, 2021 represent cash contributions received that are restricted for scholarships.

Tuition Receivable and Allowance for Doubtful Accounts

Tuition receivable consists of amounts due from tuition billings. A provision is made for doubtful accounts, when considered necessary by management, to reflect tuition receivable at its estimated realizable value. Receivables are considered past due when payments are not made according to agreed-upon terms. As of both August 31, 2022 and 2021, the allowance for doubtful accounts was \$1,291.

Fair Value of Financial Instruments

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at a specified measurement date. Fair value measurements are derived using inputs and assumptions that market participants would use in pricing an asset or liability, including assumptions about risk. U.S. GAAP establishes a valuation hierarchy for disclosure of the inputs used to measure fair value. This three-tier hierarchy classifies fair value amounts recognized or disclosed in the financial statements based on the observability of inputs used to estimate fair values. The classification within the hierarchy of a financial asset or liability is determined based on the lowest level input that is significant to the fair value measurement. The hierarchy considers fair value amounts based on observable inputs (Levels 1 and 2) to be more reliable and predictable than those based primarily on unobservable inputs (Level 3).

Fair value estimates of financial instruments are based on relevant market information and may be subjective in nature and involve uncertainties and matters of significant judgment. The Center's financial instruments consist mainly of cash, cash equivalents, tuition receivable, contributions receivable, other receivables, accounts payable, loans and a line of credit. The Center believes that the carrying value of its assets and substantially all of its liabilities approximates the fair value of such items due to the short term nature of the accounts. The Center's economic injury disaster loan (the "EIDL Loan") is carried at cost, which approximates fair value due to the interest rate being government stipulated and the same for all borrowers. The Center does not hold or issue financial instruments for trading purposes.

Property and Equipment

Property and equipment are recorded at cost, or in the case of donated assets, at estimated fair value at the date of the donation. Expenditures for substantial renewals and betterments are capitalized, while repairs and maintenance are charged to expense as incurred. Depreciation is recorded using the straight-line method over the estimated useful lives of the assets. Leasehold improvements are amortized on a straight-line method over the lesser of the useful life of the asset or the term of the lease. The estimated useful lives of significant assets are as follows:

	<u>Years</u>
Leasehold improvements	5-20
Playground equipment	15
Office equipment	5
Furniture and fixtures	7
Software	3

MOODY EARLY CHILDHOOD CENTER NOTES TO FINANCIAL STATEMENTS

2. Summary of Significant Accounting Policies, continued

Long-Lived Assets

Long-lived assets, such as property and equipment, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. If circumstances require a long-lived asset be tested for possible impairment, the Center first compares undiscounted cash flows expected to be generated by an asset to the carrying value of the asset. If the carrying value of the long-lived asset is not recoverable on an undiscounted cash flow basis, an impairment is recognized to the extent the carrying value exceeds its fair value. No impairment on long-lived assets was recognized for the years ended August 31, 2022 and 2021. Long-lived assets to be disposed of by sale are reported at the lower of their carrying amount or their fair value less costs to sell and are not depreciated.

Revenue Recognition

The Center generates revenue through a variety of sources including student tuition and fees, in-district charter school funding, grants and donor contributions.

The Center accounts for a contract with a student under ASC 606 and determines its revenue recognition through the following steps: (i) identification of the contract or contracts with a student; (ii) identification of the performance obligations within the contract; (iii) determination of the transaction price; (iv) allocation of the transaction price to the performance obligation(s) within the contract; and (v) recognition of revenue when, or as the performance obligations are been satisfied.

Student tuition and fees are recognized in the period in which the services are provided and are shown net of discounts and student financial aid. Any tuition and fees collected in advance are reported as deferred revenue, a contract liability, until earned.

Revenues from contributions, including in-kind contributions, grants and in-district charter school funding, does not fall under the scope of ASC 606, as such revenue follows the accounting guidance of ASC 958-605, *Not-for-Profit Entities – Revenue Recognition*.

Contributions

Contributions, including grants and in-district charter school funding, are recorded as contributions without donor restrictions or contributions with donor restrictions depending on the existence or nature of any donor restrictions. Unconditional contributions are recorded at their fair market value in the period in which the Center is notified of the intent of the contribution. Conditional contributions are not included in contributions until such time as the conditions are substantially met. Expirations of restrictions on net assets (i.e., the donor-restricted purpose has been fulfilled and/or the stipulated time period has elapsed) are reported as net assets released from restrictions in the Statement of Activities and Changes in Net Assets. Donor-restricted contributions whose restrictions are met within the same year as received are reported as contributions without donor restrictions.

Donated Materials, Use of Facilities and Services

Donated materials and use of facilities are recorded at fair value as contributions without donor restrictions when an unconditional commitment is received from the donor. The related expense is recognized as the item is used. The Center does not imply time restrictions for donations of long-lived assets. In the absence of donor-imposed restrictions, donations of long-lived assets are reported as revenue without donor restrictions. During the years ended August 31, 2022 and 2021, the Center received in-kind rent of \$1,135,225 and \$1,185,778, respectively (See Note 9).

In accordance with FASB Accounting Standards Codification (“ASC”) Topic 958-605, *Not-for-Profit Entities – Accounting for Contributions Received and Contributions Made*, the Center recognizes contributed services at their estimated fair value if the services received (i) create or enhance nonfinancial assets or (ii) require specialized skills, are provided by individuals possessing those skills, and would typically need to be purchased if not provided by donation. No amounts for contributed services have been reflected in the accompanying financial statements as they did not meet the criteria for recognition required by U.S. GAAP.

MOODY EARLY CHILDHOOD CENTER

NOTES TO FINANCIAL STATEMENTS

2. Summary of Significant Accounting Policies, continued

Income Tax Status

The Center is exempt from income taxes under Section 501(c)(3) of the United States Internal Revenue Code (the "IRC") and comparable state law. The Center is funded by tuition fees and private contributions. Contributions to the Center are tax deductible within the limitations prescribed by the IRC. However, the Center is subject to taxes on unrelated business income. For the years ended August 31, 2022 and 2021, there were no unrelated business activities; thus, no provision has been made for income taxes.

Functional Expense Allocation

The Center only has one program activity, which is the education of children in the greater Galveston area who are in the early stage of development. The cost of providing the program and the related management activities have been summarized on a functional basis in the Statements of Activities and Changes in Net Asset. Accordingly, certain costs have been allocated among program services and management and general, based on the level of effort by employees and other methods determined by management.

Compensable Absences

Full time employees are allowed five days of paid time off ("PTO") after completing one year of service. Employees who leave in good standing with proper notification may receive pay in lieu of taking accrued time off. The Center has adopted a policy in which accrued PTO balances are reset to zero at the beginning of each year. Thus, no amount is accrued in the financial statements for compensated absences as of August 31, 2022 and 2021.

Advertising Expenses

The Center expenses advertising expenses as they are incurred. For the years ended August 31, 2022 and 2021, the Center recorded advertising expenses of \$19,629 and \$13,245, respectively.

Reclassifications

Certain items have been reclassified in the 2021 financial statements to conform to the 2022 presentation. Such reclassifications had no effect on the Center's net assets, changes in net assets or cash flows.

Recent Accounting Standards

In February 2016, the FASB issued Accounting Standards Update ("ASU") No. 2016-02, *Leases (Topic 842)*, which requires lessees to recognize the following for all leases (with the exception of short-term leases) at the commencement date: (i) a lease liability, which is a lessee's obligation to make lease payments arising from a lease, measured on a discounted basis; and (ii) a right-of-use asset, which is an asset that represents the lessee's right to use, or control the use of, a specified asset for the lease term. Under ASU No. 2016-02, lessor accounting is largely unchanged. ASU No. 2016-02 is effective for fiscal years beginning after December 15, 2019 with early application permitted. Lessees and lessors must apply a modified retrospective transition approach for leases existing at, or entered into after, the beginning of the earliest comparative period presented in the financial statements. The modified retrospective approach would not require any transition accounting for leases expiring before the earliest comparative period presented. Lessees and lessors may not apply a full retrospective transition approach. In July 2019, the FASB approved the delay of the effective date of ASU No. 2016-02 by one year (effective for annual periods beginning after December 15, 2020). In June 2020, the FASB issued ASU No. 2020-05, which allowed certain entities who had not yet issued their financial statements (or made financial statements available for issuance) reflecting the adoption of ASU No. 2016-02 to defer implementation for one year due to unique challenges resulting from the COVID-19 pandemic. Accordingly, ASU No. 2016-02 is effective for the Center for the year beginning September 1, 2022. Management is currently evaluating the effect the provisions of ASU No. 2016-02 will have on the Center's financial statements.

In September 2020, the FASB issued ASU No. 2020-07, *Not-for-Profit Entities (Topic 958): Presentation and Disclosures by Not-for-Profit Entities for Contributed Nonfinancial Assets*, which is designed to improve generally accepted accounting principles by increasing the transparency of contributed nonfinancial assets for not-for-profit entities through enhancements to presentation and disclosure. The amendments in the new guidance improve financial reporting by providing new presentation and disclosure requirements about contributed nonfinancial assets for not-for-profits, including additional disclosure requirements for recognized contributed services, covered in FASB ASC Topic 958 ("ASC 958") *Not-for-Profit Entities – Revenue Recognition*.

**MOODY EARLY CHILDHOOD CENTER
NOTES TO FINANCIAL STATEMENTS**

2. Summary of Significant Accounting Policies, continued

Recent Accounting Standards, continued

The amendments in this update should be applied on a retrospective basis and are effective for annual periods beginning after June 15, 2021. Early adoption is permitted. The Center adopted the provisions of ASU No. 2020-07 on September 1, 2021. The adoption of ASU No. 2020-07 did not have a significant impact on the Center's financial statements.

3. Contributions Receivable

Contributions receivable at August 31, 2022 and 2021, consist of the following:

	<u>2022</u>	<u>2021</u>
Receivables due in less than one year	\$ 1,966,666	\$ 1,966,666
Receivables due in one to five years	<u>3,933,334</u>	<u>5,900,000</u>
Total contributions receivable	5,900,000	7,866,666
Less discount to net present value	<u>(127,641)</u>	<u>(127,641)</u>
Contributions receivable, net	<u>\$ 5,772,359</u>	<u>\$ 7,739,025</u>

4. Property and Equipment

As of August 31, 2022 and 2021, property and equipment consist of the following:

	<u>2022</u>	<u>2021</u>
Leasehold improvements	\$ 500,771	\$ 500,771
Furniture and fixtures	324,016	314,416
Playground equipment	194,503	194,503
Office equipment	35,420	35,420
Software	<u>29,518</u>	<u>18,133</u>
	1,084,228	1,063,243
Accumulated depreciation	<u>(524,365)</u>	<u>(412,889)</u>
Property and equipment, net	<u>\$ 559,863</u>	<u>\$ 650,354</u>

For the years ended August 31, 2022 and 2021, depreciation expense was \$111,476 and \$113,762, respectively.

5. Accrued Liabilities

As of August 31, 2022 and 2021, accrued liabilities consist of the following:

	<u>2022</u>	<u>2021</u>
Payroll and taxes	\$ 261,496	\$ 77,006
Other	<u>21,085</u>	<u>5,399</u>
	<u>\$ 282,581</u>	<u>\$ 82,405</u>

MOODY EARLY CHILDHOOD CENTER NOTES TO FINANCIAL STATEMENTS

6. Line of Credit

The Center has a line of credit agreement with Moody Bank with a maximum draw of \$300,000 to assist in the periodic cash needs of the Center. Principal and interest is due monthly, with interest calculated on the unpaid principal balances at an interest rate of 4.25% per annum. The line of credit was renewed in August 2021 and August 2022 under the same terms as the original agreement and matures in August 2023. Collateral for the line of credit consists of all Center assets. At August 31, 2022 and 2021, the outstanding balance on the line of credit was \$0 and \$283,000, respectively. During the years ended August 31, 2022 and 2021, interest expense associated with the line of credit was \$4,745 and \$10,500, respectively.

7. Paycheck Protection Program Loan

On March 27, 2020, the President of the United States signed into law the Coronavirus Aid, Relief, and Economic Security ("CARES") Act, which, among other things, includes the Paycheck Protection Program (the "PPP"). On April 17, 2020, pursuant to the PPP, the Center received proceeds from an unsecured loan with Moody Bank, N.A. in the amount of \$633,100, bearing interest at a rate of 1.00% per year with a maturity date of April 9, 2022. The CARES Act allows principal, interest and fees to be deferred six months ("deferral period"), and accordingly, interest and principal is due in monthly installments of \$35,451 beginning October 9, 2020. Under the CARES Act, loan forgiveness may be available for certain qualifying expenses as defined in the CARES Act. On June 5, 2020, the President of the United States signed into law the PPP Flexibility Act, which, among other things, extended the deferral period for all entities that have applied for forgiveness from six months to the date that the financial institution receives the approved loan forgiveness funds from the Small Business Administration. The Center applied for and received forgiveness of the PPP Loan in February 2021. During the year ended August 31, 2021, the Center recognized \$633,100 as forgiveness of debt which is included as its own line item in the accompanying Statement of Activities and Changes in Net Assets.

During February 2021, the Center entered into an unsecured loan with Moody Bank, N.A. under the second round of the PPP in the amount of \$633,100, bearing interest at a rate of 1.00% per year with a maturity date of February 17, 2026. The principal, interest and fees is deferred for a period of ten months after the end of the loan forgiveness covered period. At August 31, 2021, \$633,100 was outstanding on the note. Under the PPP, loan forgiveness may be available for certain qualifying expenses as defined in the CARES Act. In January 2022, the Center applied for and received forgiveness of the PPP loan it had taken under the second round of the program. During the year ended August 31, 2022, the Center recognized \$633,100 as forgiveness of debt which is included as its own line item in the accompanying Statement of Activities and Changes in Net Assets.

8. Economic Injury Disaster Loan

On February 9, 2022, the Center executed the standard loan documents required for securing a loan (the "EIDL Loan") from the United States Small Business Administration (the "SBA") under its Economic Injury Disaster Loan assistance program in light of the impact of the COVID-19 pandemic on the Center's operations. The principal amount of the EIDL Loan is \$2,000,000, with proceeds to be used for working capital purposes. Interest on the EIDL Loan accrues at the rate of 2.75% per annum and installment payments, including principal and interest, are due monthly beginning twenty-four months from the date of the EIDL Loan in the amount of \$8,975. The balance of principal and interest is payable 30 years from the date of the promissory note. In connection with the EIDL Loan, the Center executed the EIDL Loan documents, which include the SBA Secured Disaster Loan Note, dated February 9, 2022, the Loan Authorization Agreement, dated February 2, 2022, and the Security Agreement, dated February 9, 2022, each between the SBA and the Center. The EIDL Loan requires all requests for disbursements be made by August 9, 2022 (six months after the date of the EIDL Loan). During the year ended August 31, 2022, the Center received funding of \$2,000,000 and repaid \$1,255,221. During the year ended August 31, 2022, interest expense associated with the EIDL Loan was \$7,979.

**MOODY EARLY CHILDHOOD CENTER
NOTES TO FINANCIAL STATEMENTS**

8. Economic Injury Disaster Loan, continued

As of August 31, 2022, the outstanding EIDL Loan balance was \$744,779 due as follows:

<u>For the Year Ending August 31,</u>	
2023	\$ -
2024	51,229
2025	89,753
2026	92,253
2027	94,882
2028 and thereafter	<u>416,662</u>
	<u>\$ 744,779</u>

9. Occupancy Transactions

In 2018, MECC became an In-District Charter school with GISD and signed a Charter Agreement in August of 2018 that allows the Center to utilize the entire 65,000 square foot premises of GISD's San Jacinto School building located at 21st Street Avenue L in Galveston, Texas rent free. The building operates under the name of Moody Early Childhood Center on a year-round basis with the explicit intent of providing educational opportunities for a cross-section of Galveston youth. As such, for the years ended August 31, 2021 and 2020, the Center recorded in-kind contributions, as well as rent expense, in the amount of \$1,135,225 and \$1,185,778, respectively. Effective June 16, 2021, the Charter Agreement was renewed for a period commencing on the effective date and ending on June 30, 2024. Upon the end of the renewal term, the parties may elect to renew the Charter Agreement for an additional three year period with an automatic two year renewal, so long as the Center meets the performance standards outlined in the agreement.

10. Net Assets With Donor Restrictions

Net assets with donor restrictions at August 31, 2022 and 2021 are available for the following purposes:

	<u>2022</u>	<u>2021</u>
Subject to expenditure for a specified purpose:		
Scholarships	\$ 256,106	\$ 69,999
Family engagement	<u>25,279</u>	<u>-</u>
	<u>\$ 281,385</u>	<u>\$ 69,999</u>

11. Liquidity

The following reflects the Center's financial assets as of August 31, 2022 and 2021, reduced by amounts not available for general use due to contractual or donor-imposed restrictions within one year of the financial position date.

	<u>2022</u>	<u>2021</u>
Financial assets, at year-end	\$ 7,576,065	\$ 8,991,336
Less those unavailable for general expenditure within one year, due to contractual or donor-imposed restrictions:		
Restricted by donor with purpose restrictions	(281,385)	(69,999)
Financial assets with implied time restrictions	<u>(3,805,693)</u>	<u>(5,772,359)</u>
Financial assets available to meet cash needs for general expenditures within one year	<u>\$ 3,488,987</u>	<u>\$ 3,148,978</u>

**MOODY EARLY CHILDHOOD CENTER
NOTES TO FINANCIAL STATEMENTS**

11. Liquidity, continued

The Center is substantially supported by contributions, grants, in-district charter school funding, and tuition revenue that do not contain donor-imposed restrictions; thus, the majority of the Center's financial assets are available as their general expenditures, liabilities, and other obligations come due.

12. Concentration of Credit Risk

A substantial amount of the Center's revenue consists of grants from foundations in Galveston County.

During the year ended August 31, 2022, grant revenue from three organizations represented 71% of total revenues and support. During the year ended August 31, 2021, grant revenue from two organizations represented 80% of total revenues and support.

13. Subsequent Events

Management has evaluated subsequent events through [REDACTED], the date the financial statements were available to be issued, and has concluded that there were no significant events to be reported.

DRAFT

SUPPLEMENTAL FINANCIAL SCHEDULES AND INFORMATION

DRAFT

**INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL
OVER FINANCIAL REPORTING AND ON COMPLIANCE AND
OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL
STATEMENTS PERFORMED IN ACCORDANCE
WITH *GOVERNMENT AUDITING STANDARDS***

INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

To the Board of Directors of
Moody Early Childhood Center
Galveston, Texas

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the Moody Early Childhood Center (the "Center"), which comprise the statements of financial position, activities and changes in net assets, functional expenses, and cash flows as of and for the year ended August 31, 2022, and the related notes to the financial statements, which collectively comprise the Center's financial statements, and have issued our report thereon dated [REDACTED], 2023.

Internal Control over Financial Reporting

In planning and performing our audit of the financial statements, we considered the Center's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Center's internal control. Accordingly, we do not express an opinion on the effectiveness of the Center's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our audit we did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses, as defined above. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Center's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS, continued

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Houston, Texas
May _____, 2023

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**INDEPENDENT AUDITOR'S REPORT ON
COMPLIANCE FOR EACH MAJOR PROGRAM
AND ON INTERNAL CONTROL OVER COMPLIANCE
REQUIRED BY THE *UNIFORM GUIDANCE***

DRAFT

INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE FOR EACH MAJOR PROGRAM AND ON INTERNAL CONTROL OVER COMPLIANCE REQUIRED BY THE *UNIFORM GUIDANCE*

To the Board of Directors of
Moody Early Childhood Center
Galveston, Texas

Report on Compliance for Each Major Federal Program

Opinion on Each Major Federal Program

We have audited the Moody Early Childhood Center's (the "Center") compliance with the types of compliance requirements identified as subject to audit in the *OMB Compliance Supplement* that could have a direct and material effect on each of the Center's major federal programs for the year ended August 31, 2022. The Center's major federal programs are identified in the Summary of Independent Auditor's Results section of the accompanying Schedule of Findings and Questioned Costs.

In our opinion, the Center complied, in all material respects, with the compliance requirements referred to above that could have a direct and material effect on each of its major federal programs for the year ended August 31, 2022.

Basis for Opinion on Each Major Federal Program

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America ("U.S. GAAS"); the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States ("Government Auditing Standards"); and the audit requirements of Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* ("Uniform Guidance"). Our responsibilities under those standards and the Uniform Guidance are further described in the Auditor's Responsibilities for the Audit of Compliance section of our report.

We are required to be independent of the Center and to meet our other ethical responsibilities, in accordance with relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion on compliance for each major federal or state program. Our audit does not provide a legal determination of the Center's compliance with the compliance requirements referred to above.

Responsibilities of Management for Compliance

Management is responsible for compliance with the requirements referred to above and for the design, implementation, and maintenance of effective internal control over compliance with the requirements of laws, statutes, regulations, rules and provisions of contracts or grant agreements applicable to the Center's federal programs.

Auditor's Responsibilities for the Audit of Compliance

Our objectives are to obtain reasonable assurance about whether material noncompliance with the compliance requirements referred to above occurred, whether due to fraud or error, and express an opinion on the Center's compliance based on our audit. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS, *Government Auditing Standards* and the Uniform Guidance will always detect material noncompliance when it exists. The risk of not detecting material noncompliance resulting from fraud is higher than for that resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Noncompliance with the compliance requirements referred to above is considered material, if there is a substantial likelihood that, individually or in the aggregate, it would influence the judgment made by a reasonable user of the report on compliance about the Center's compliance with the requirements of each major federal program as a whole.

INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE FOR EACH MAJOR PROGRAM AND ON INTERNAL CONTROL OVER COMPLIANCE REQUIRED BY THE *UNIFORM GUIDANCE*, continued

In performing an audit in accordance with GAAS, *Government Auditing Standards* and the Uniform Guidance, we:

- Exercise professional judgement and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material noncompliance, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining on a test basis, evidence regarding the Center's compliance with the compliance requirements referred to above and performing such other procedures as we considered necessary in the circumstances.
- Obtain an understanding of the Center's internal control over compliance relevant to the audit in order to design audit procedures that are appropriate in the circumstances and to test and report on internal control over compliance in accordance with the Uniform Guidance, but not for the purpose of expressing an opinion on the effectiveness of the Center's internal control over compliance. Accordingly, no such opinion is expressed.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and any significant deficiencies and material weaknesses in internal control over compliance that we identified during the audit.

Report on Internal Control Over Compliance

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal or state program on a timely basis. A *material weakness in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal or state program will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal or state program that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over compliance was for the limited purpose described in the Auditor's Responsibilities for the Audit of Compliance section above and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control over compliance that we consider to be material weaknesses, as defined above. However, material weaknesses may exist that have not been identified.

Our audit was not designed for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, no such opinion is expressed.

The purpose of this report on internal control over compliance is solely to describe the scope of our testing of internal control over compliance and the results of that testing based on the requirements of the *Uniform Guidance*. Accordingly, this report is not suitable for any other purpose.

Report on Schedule of Expenditures of Federal Awards Required by the Uniform Guidance

We have audited the financial statements of the Center as of and for the year ended August 31, 2022, and have issued our report thereon dated [REDACTED], 2023, which contained an unmodified opinion on those financial statements. Our audit was performed for the purpose of forming an opinion on the financial statements as a whole. The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by the Uniform Guidance and is not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements.

INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE FOR EACH MAJOR PROGRAM AND ON INTERNAL CONTROL OVER COMPLIANCE REQUIRED BY THE *UNIFORM GUIDANCE*, continued

The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the schedule of expenditures of federal awards is fairly stated in all material respects in relation to the financial statements as a whole.

Houston, Texas
 , 2023

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SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS

**MOODY EARLY CHILDHOOD CENTER
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
FOR THE YEAR ENDED AUGUST 31, 2022**

Federal Grantor/Pass-through Grantor/ Program Title	Federal Assistance Listing Number	Pass-through Grantor Number	Expenditures
United States Small Business Administration COVID-19 Economic Injury Disaster Loan	59.008	3311179101	\$ 2,000,000
United States Department of Health and Human Services Texas Workforce Commission Child Care Relief Block Grant Coronavirus Response and Relief Supplemental Appropriations Act of 2021	93.575	2921CCR009004	<u>712,131</u>
Total expenditures under federal grants			<u><u>\$ 2,712,131</u></u>

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See accompanying notes to schedule of expenditures of federal awards.

MOODY EARLY CHILDHOOD CENTER
NOTES TO SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS

1. Basis of Presentation

The accompanying schedule of expenditures of federal awards (the "Schedule") includes the federal grant activities of the Center, under programs of the federal government for the year ended August 31, 2022. The information in the Schedule is presented in accordance with the requirements of Title 2 *U.S. Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Because the Schedule presents only a selected portion of the operations of the Center, it is not intended to, and does not, present the net position or changes in net position of the Center. Therefore, amounts presented in the Schedule may differ from amounts presented in, or used in, the preparation of the financial statements.

2. Summary of Significant Accounting Policies

Expenditures reported on the Schedule are reported on the accrual basis of accounting. Such expenditures are recognized following the cost principles contained in the Uniform Guidance, wherein certain types of expenditures are not allowable or are limited as to reimbursement.

3. Indirect Cost Rates

The Center did not elect to use the 10-percent de minimis indirect cost rate as allowed by the Uniform Guidance.

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**SCHEDULE OF FINDINGS AND
QUESTIONED COSTS**

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**MOODY EARLY CHILDHOOD CENTER
SCHEDULE OF FINDINGS AND QUESTIONED COSTS**

SECTION I – SUMMARY OF INDEPENDENT AUDITOR’S RESULTS

FINANCIAL STATEMENTS

Type of independent auditor’s report issued: Unmodified

Internal control over financial reporting:

- Material weakness identified? ___ Yes X No
- Significant deficiency identified that is not considered to be a material weakness? ___ Yes X No

Noncompliance material to financial statements noted? ___ Yes X No

FEDERAL AWARDS

Internal control over major programs:

- Material weakness identified? ___ Yes X No
- Significant deficiency identified that is not considered to be a material weakness? ___ Yes X No

Type of independent auditor’s report issued on compliance for major programs: Unmodified

Any audit findings disclosed that are required to be reported in accordance with *Uniform Guidance*? ___ Yes X No

Identification of major program:

<i>Name of Federal Program</i>	<i>Assistance Listing Number</i>
United States Small Business Administration COVID-19 Economic Injury Disaster Loan	59.008
United States Department of Health and Human Services Texas Workforce Commission Child Care Relief Block Grant – Coronavirus Response and Relief Supplemental Appropriations Act of 2021	93.575

Dollar threshold used to distinguish between type A and type B programs: \$ 750,000

Auditee qualified as low-risk auditee? ___ Yes X No

**MOODY EARLY CHILDHOOD CENTER
SCHEDULE OF FINDINGS AND QUESTIONED COSTS**

SECTION II – FINANCIAL STATEMENT FINDINGS

There were no findings related to the financial statements which are required to be reported in accordance with generally accepted government auditing standards (“GAGAS”).

SECTION III – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

FEDERAL AWARD FINDINGS

There were no findings related to the schedule of expenditures of federal awards which are required to be reported in accordance with Title 2 *U.S. Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principals, and Audit Requirements for Federal Awards* (Uniform Guidance).

FEDERAL AWARD QUESTIONED COSTS

There were no questioned costs related to the schedule of expenditures of federal and state awards which are required to be reported in accordance with Title 2 *U.S. Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principals, and Audit Requirements for Federal Awards* (Uniform Guidance).

SECTION IV – SCHEDULE OF PRIOR YEAR FINDINGS

There were no findings related to the schedule of expenditures of federal awards for the year ended August 31, 2021 which are required to be reported in accordance with Title 2 *U.S. Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principals, and Audit Requirements for Federal Awards* (Uniform Guidance).

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