

Elementary and Secondary Education Act Programs

The Elementary and Secondary Education Act was first passed by Congress in 1965 as part of President Lyndon B. Johnson's War on Poverty. The most recent reauthorization of this legislation is the No Child Left Behind Act of 2001 (NCLB). The primary function of NCLB is to close the achievement gap between groups of students by requiring greater accountability and offering increased flexibility and choice. NCLB affects almost every charter school in the state.

20 USC 6301 *et seq.*

Early Intervening Service

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 USC 1400(c)(5)(F))

In implementing coordinated, early intervening services, the local educational agency (LEA) 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 USC 1413(f)(2); 34 CFR 300.226(b))

An early intervening service (including a response-to-intervention or (RTI)) process cannot delay the initial evaluation for special education services of a child suspected of having a disability. A parent may request an evaluation at any time to determine whether her child is a child with a disability. If a parent requests an evaluation and the school agrees that the child may be eligible for special education, the school must evaluate the child or 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 USC 1413(f)(3); 34 CFR 300.226(c))

Bilingual Education Program

Under Texas Education Code (TEC) Chapter 29, Subchapter B and 19 TAC §§89.1201-1265, schools and charter schools must identify Limited English Proficient (LEP) students based on state criteria. Schools and charter schools must provide an appropriate Bilingual Education (BE) or English as a Second Language (ESL) program conducted by teachers certified for such courses. Schools and charter schools receive a bilingual allocation for providing such instruction to be used for program and student evaluation, materials, salary supplements, etc. See TEC §42.153. Up to 15 percent of the allotment may be used for indirect costs (transportation, administration, etc.). See *Texas Open-Enrollment Charter School Handbook* (TEA, Division of Charter School Administration, September 2011), available at: <http://www.tea.state.tx.us/charter/>.

Student with Disabilities and Limited English Proficiency:

It is the policy of [NAME] Open Enrollment Charter School to ensure that a student with limited English proficiency who also qualifies for special education services as a student with a disability under the Individuals with Disabilities Education Act (IDEA) is not refused services in a bilingual education or English as a second language program solely because the student has a disability. (19 TAC §89.1230)

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. (TEC §12.104(b)(2)(G))

The Jean Massieu Academy Open-Enrollment Charter School adopts the requirements of Subchapter B (Bilingual Education and Special Language Programs), Chapter 29, Texas Education Code pursuant to TEC §12.104(b)(2)(G). Where "school" is used in Subchapter B (Bilingual Education and Special Language Programs), the Jean Massieu Academy Open-Enrollment Charter School hereby substitutes "open-enrollment charter school" to conform to these requirements.

Establishment of Bilingual Education and Special Language Program:

The open-enrollment charter school shall establish a Bilingual Education (BE) or English as a Second Language (ESL) program as required by TEC §29.053 (Establishment of Bilingual Education and Special Language Programs) and in accordance with the procedures established by the Texas Education Agency, unless otherwise excepted under TEC §29.054 (Exception). (TEC §29.053)

Language Proficiency Assessment Committees:

The open-enrollment charter school shall further establish a Language Proficiency Assessment Committee (LPAC) that complies with TEC §29.063 (Language Proficiency Assessment Committees). (TEC §29.063)

Program Content; Method of Instruction:

The open-enrollment charter school's program content and method of instruction shall comply with TEC §29.055 (Program Content; Method of Instruction). (TEC §29.055)

Enrollment of Students in Program:

The open-enrollment charter school shall comply with the Texas Education Agency criteria for identification, assessment, and classification of students of limited English proficiency eligible for entry into the program or exit from the program. (TEC §29.056(a))

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 TEC §29.064 (Appeals). (TEC §29.056(a))

The open-enrollment charter school through its language proficiency assessment committee (LPAC) shall evaluate and consider reenrollment of students who have transferred out of a bilingual education or special language program under TEC §29.056(g) as required by TEC §29.0561 (Evaluation of Transferred Students; Reenrollment). (TEC §29.056(b))

Facilities; Classes:

The Jean Massieu Academy open enrollment charter school ensures that bilingual education and special language programs are located in the regular public charter school rather than in separate facilities.). (TEC §29.057)

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Date Revised: February 11, 2013

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Enrollment of Students Who Do Not Have Limited English Proficiency:

The open-enrollment charter school ensures that enrollment of students who do not have limited English proficiency may occur only if the requirements of TEC §29.058 (Enrollment of Students Who Do Not Have Limited English Proficiency) are met. (TEC §29.058)

Cooperation among Schools:

The open-enrollment charter school may cooperate with other schools or charter schools to provide a bilingual education or special language program. (TEC §29.059)

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 children 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 TEC §29.060. (TEC §29.060(a))

Enrollment of a child in the program is optional with the parent of the child. (TEC §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. (TEC §29.060(c))

An open-enrollment charter school may establish on a full- or part-time basis other 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. (TEC §29.060(d))

The programs required or authorized by TEC §29.060 may not be a substitute for programs required to be provided during the regular school year. (TEC §29.060(e))

The legislature may appropriate money from the foundation school fund for support of a program under TEC §29.060(a). (TEC §29.060(f))

Bilingual Education and Special Language Program Teachers:

The open-enrollment charter school shall ensure that bilingual education and special language program teachers are properly certified. (TEC §29.061)

Appeals:

A parent of a student enrolled in a bilingual education or special language program may appeal to the Commissioner if the open-enrollment charter school fails to comply with the requirements established by law or by the Texas Education Agency. If the parent disagrees with the placement of the student in the program, the parent may appeal that decision to the open-enrollment charter school governing body. Appeals shall be conducted in accordance with procedures adopted by the Commissioner. (TEC §29.064)

PEIMS Reporting Requirements:

The open-enrollment charter school shall meet Public Education Information Management System (PEIMS) Reporting Requirements with respect to its bilingual education or special language programs. (TEC §29.066)

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Prekindergarten Programs

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

(TEC §12.104(b)(2)(H))

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to offer prekindergarten classes if the school identifies 15 or more children who are eligible under Subsection 29.153(b), Texas Education Code, and are at least four years of age.

(TEC §29.153(a)(1))

Notification

The Jean Massieu Academy Open-Enrollment Charter School shall develop a system to notify residents within the school's geographic 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 the program.

(TEC § 29.009)

***Information Concerning Special Education and Education of Children
with Learning Difficulties***

The Texas Education Agency shall produce and provide to school schools sufficient copies of a comprehensive, easily understood document that explains the process by which an individualized education program is developed for a student in a special education program and the rights and responsibilities of a parent concerning the process. The document must include information a parent needs to effectively participate in an admission, review, and dismissal committee meeting for the parent's child.

(TEC §26.0081)

The Jean Massieu Academy Open-Enrollment Charter School will provide the document provided by the agency under Section 26.0081, Texas Education Code, or equivalent as determined by the school, to the parent as provided by 20 U.S.C. Section 1415(b):

1. as soon as practicable after a child is referred to determine the child's eligibility for admission into the school's special education program, but at least five school days before the date of the initial meeting of the admission, review, and dismissal committee; and
2. at any other time on reasonable request of the child's parent.

(20 U.S.C. § 1415(b))

Referral for Full and Individual Initial Evaluation

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to make referrals of students for a full and individual initial evaluation for possible special education services part of the open-enrollment charter school's overall general education referral or screening system. Either a parent, TEA, another state agency, or the school may initiate a request for an initial evaluation.

Before referral, students experiencing difficulty in the general classroom will 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, school 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)

A reasonable time before the school proposes or refuses to initiate the identification, evaluation, or educational placement of a student or the provision of a free appropriate public education (FAPE) to a student, the school shall provide written notice to the student's parent or guardian. *(20 U.S.C. 1415(b)(3); 34 CFR 300.503(a))* The school 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))*

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))*

The LEA must promptly request consent for initial evaluation whenever the child is referred for an evaluation for a specific learning disability and if, prior to a referral, the child has not made adequate progress after an appropriate period of time when provided instruction as follows:

- Appropriate instruction in regular education settings, delivered by qualified personnel as demonstrated by the data; and

- With data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of the child's progress during instruction, which was provided to the child's parents.

(34 CFR 300.309(c))

Notice in Understandable Language

The open-enrollment charter school must give the parent prior written notice (provide the parent certain information in writing), within a reasonable amount of time before it:

- (1) proposes to initiate or to change the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education (FAPE) to the child; or
- (2) refuses to initiate or to change the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child.

The prior written notice must be:

- (1) written in language understandable to the general public; and
- (2) provided in the parent's native language or other mode of communication the parent uses in accordance with the school's policy on use of parents' native language.

Content of Notice

The prior written notice must:

- (1) describe the action that the open-enrollment charter school proposes or refuses to take;
- (2) explain why the open-enrollment charter school is proposing or refusing to take the action;
- (3) describe each evaluation procedure, assessment, record, or report the open-enrollment charter school used in deciding to propose or refuse the action;

- (4) include a statement that the parent has protections under the procedural safeguards provisions in Part B of IDEA;
- (5) tell the parent how the parent can obtain a description of the procedural safeguards if the action that the open-enrollment charter school is proposing or refusing is not an initial referral for evaluation;
- (6) include resources for the parent to contact for help in understanding Part B of IDEA;
- (7) describe any other options that the child's ARD committee considered and the reasons why those options were rejected; and
- (8) provide a description of other reasons why the open-enrollment charter school proposed or refused the action.

§29.0041(a), the open-enrollment charter school shall provide the information described by TEC §§29.0041(a)(1) and (2) to the child's parent regarding the additional examination or test and shall obtain additional consent for the examination or test. (TEC §29.0041(b))

The time required for the open-enrollment charter school to provide information and seek consent under TEC §29.0041(b) may not be counted toward the 60 calendar days for completion of an evaluation under TEC §29.004. If a parent does not give consent under TEC §29.0041(b) within 20 calendar days after the date the open-enrollment charter school provided to the parent the information required by that TEC §29.0041(b), the parent's consent is considered denied. (TEC §29.0041(c))

Extension of Timelines

For a specific learning disability, the timelines for evaluation under this policy may be extended by mutual written agreement of the child's parents and the Admission, Review, and Dismissal Committee. (34 CFR 300.309(c))

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. (TEC §29.016)

Parental Consent for Initial Evaluation

The open-enrollment charter school cannot conduct an initial evaluation of the child to determine whether the child is eligible under Part B of IDEA to receive special education and related services without first providing the parent with prior written notice of the proposed action and obtaining parental consent.

The open-enrollment charter school must make reasonable efforts to obtain the parent's informed consent for an initial evaluation to decide whether the child is a child with a disability.

The parent's consent for initial evaluation does not mean that the parent has also given consent for the open-enrollment charter school to start providing special education and related services to the parent's child.

The open-enrollment charter school may not use the parent's refusal to consent to one service or activity related to the initial evaluation as a basis for denying the parent or the child any other service, benefit, or activity, unless another Part B requirement requires the open-enrollment charter school to do so.

If the child is enrolled in the open-enrollment charter school or the parent is seeking to enroll the child in the open-enrollment charter school and the parent has refused to provide consent or failed to respond to a request to provide consent for an initial evaluation, the open-enrollment charter school may, but is not required to, seek to conduct an initial evaluation of the child by using the IDEA's mediation or due process complaint, resolution meeting, and impartial due process hearing procedures. The open-enrollment charter school will not violate its obligations to locate, identify and evaluate the child if it does not pursue an evaluation of the child in these circumstances.

Special Rules for Initial Evaluation of Wards of the State

If a child is a ward of the State and is not living with his or her parent, the open-enrollment charter school does not need consent from the parent for an initial evaluation to determine if the child is a child with a disability if:

- (1) despite reasonable efforts to do so, the open-enrollment charter school cannot find the child's parent;
- (2) the rights of the parents have been terminated in accordance with State law; or
- (3) a judge has assigned the right to make educational decisions to an individual other than the parent and that individual has provided consent for an initial evaluation.

Ward of the State, as used in IDEA, means a child who, as determined by the State where the child lives, is:

- (1) a foster child;
- (2) considered a ward of the State under State law; or
- (3) in the custody of a public child welfare agency.

Ward of the State does not include a foster child who has a foster parent who meets the definition of a parent as used in IDEA.

(34 CFR § 300.9)

Parental Consent for Services

The open-enrollment charter school must make reasonable efforts to obtain informed consent from the parent before providing special education and related services to the child for the first time.

If the parent does not respond to a request to provide parental consent to receive special education and related services for the first time, or if the

parent refuses to give such consent or later revokes (cancels) consent in writing, the open-enrollment charter school may not use the procedural safeguards (i.e., mediation, due process complaint, resolution meeting, or an impartial due process hearing) in order to obtain agreement or a ruling that the special education and related services (recommended by the ARD committee) may be provided to the child without the parent's consent.

If the parent refuses to give parental consent for the child to receive special education and related services for the first time, or if the parent does not respond to a request to provide such consent or later revokes (cancels) consent in writing and the open-enrollment charter school does not provide the child with the special education and related services for which it sought the parent's consent, the open-enrollment charter school:

- (1) is not in violation of the requirement to make a free appropriate public education (FAPE) available to the child for its failure to provide those services to the child; and
- (2) is not required to have an ARD meeting or develop an IEP for the child for the special education and related services for which the parent's consent was requested.

If the parent revokes (cancels) the parent's consent in writing at any point after the child is first provided special education and related services, then the open-enrollment charter school may not continue to provide such services, but must provide the parent with prior written notice before discontinuing those services.

Parental Consent for Reevaluations

The open-enrollment charter school must obtain the parent's informed consent before it reevaluates the child, unless the open-enrollment charter school can demonstrate that:

- (1) it took reasonable steps to obtain the parent's consent for the child's reevaluation; and

(2) the parent did not respond.

If the parent refuses to consent to the child's reevaluation, the open-enrollment charter school may, but is not required to, pursue the child's reevaluation by using the mediation, due process complaint, resolution meeting, and impartial due process hearing procedures to seek to override the parent's refusal to consent to the child's reevaluation. As with initial evaluations, the open-enrollment charter school does not violate its obligations under the IDEA if it declines to pursue the reevaluation in this manner.

Documentation of Reasonable Efforts to Obtain Parental Consent

The open-enrollment charter school must maintain documentation of reasonable efforts to obtain the parent's consent for initial evaluations, to provide special education and related services for the first time, for a reevaluation, and to locate parents of wards of the State for initial evaluations. The documentation must include a record of the open-enrollment charter school's attempts in these areas, 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
- (3) detailed records of visits made to the parent's home or place of employment and the results of those visits.

Parental Consent to Access Public Benefits

It is the policy of the Jean Massieu Academy Open Enrollment Charter School to 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.

Parental Consent for Transfer of Assistive Technology Devices

It is the policy of the Jean Massieu Academy Open Enrollment Charter School to 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.

Other Consent Requirements

Parental consent is not required before the open-enrollment charter school may:

- (1) review existing data as part of the child's evaluation or a reevaluation; or
- (2) give the child a test or other evaluation that is given to all children unless, before that test or evaluation, consent is required from parents of all children. 34 CFR 300.300(d)

Free Appropriate Public Education (FAPE)

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to ensure that all children with disabilities within its jurisdiction, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services in accordance with the IDEA.

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to ensure that a free appropriate public education (FAPE) is available to all children with disabilities beginning no later than when the child turns three through the school year in which the student reaches 21 years of age, including children who have been suspended or expelled from school in accordance with the IDEA.

Eligible students with disabilities shall enjoy the right to a free appropriate public education, which may include instruction in the regular classroom, instruction through special teaching, or instruction through contracts approved under this subchapter. Instruction shall be supplemented by the provision of related services when appropriate. (TEC §29.003(a))

It is the policy of the Jean Massieu Academy Open Enrollment Charter School to 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.

It is the policy of the Jean Massieu Academy Open Enrollment Charter School ensure that Extended School Year services are available as necessary to provide FAPE.

Eligibility Criteria

A student is eligible to participate in an open-enrollment charter school's special education program if the student:

- (1) 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; or
- (2) is at least three but not more than 21 years of age and has one or more of the following disabilities that prevents the student from being adequately or safely educated in public school without the provision of special services:
 - (A) physical disability;
 - (B) mental retardation;
 - (C) emotional disturbance;
 - (D) learning disability;
 - (E) autism;
 - (F) speech disability; or
 - (G) traumatic brain injury.

(TEC §29.003(b))

A determination of eligibility must not be made if the determinant factor for that determination is lack of appropriate instruction in reading, including in the essential components of reading instruction, lack of appropriate instruction in math, or limited English proficiency. (34 CFR 300.306(b))

CHARTER SCHOOL POLICY

LEAST RESTRICTIVE ENVIRONMENT

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to ensure that to the maximum extent appropriate, children with disabilities are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with disabilities from the regular education environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to comply with requirements of the system for monitoring special education compliance adopted by Texas Education Agency under Texas Education Code Section 29.010.

Admission, Review and Dismissal (ARD) Committee

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to ensure that an Individualized Education Program (IEP) is developed, reviewed, and revised for each child with a disability in accordance with the IDEA.

Before a child is enrolled in a special education program of an open-enrollment charter school, the open-enrollment charter school shall establish a committee composed of the persons required under 20 U.S.C. §1401(11) to develop the child's individualized education program. A representative of the school's Career and Technology Education (CTE) program is a required member of the ARD committee when considering initial and continuing placement of a child in CTE (TEC §29.005(a); 34 CFR 75.1023(d)(1); 20 USC 2301.

It is the policy of the Jean Massieu Academy Open Enrollment Charter School to obtain informed consent from the parent before excusing a member from attending an ARD committee meeting (in whole, or in part).

The ARD committee must determine needed special education services, meaning specially-designed instruction that is provided , at no cost to parents and meets the unique needs of the child with a disability. (300.320(a)(4)).

The ARD committee must determine needed related services as defined by 34 CFR 300.34.

The need for ESY services must be determined on an individual basis by the admission, review and dismissal (ARD) committee. (19 TAC 89.1065(1))

The ARD committee must provide a statement of the child's present levels of academic achievement and functional performance. The statement must

include a summary of how the child's disability affects the child's involvement and progress in the general curriculum or, in the case of a pre-school child, participation in appropriate activities. (34 CFR 300.320(a)(1)).

The ARD committee must include in the child's individualized education program (IEP) a statement of measurable annual academic and functional goals designed to:

- 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
- Meet each of the child's other educational needs that result from the child's disability. (34 CFR 300.320(a)(2)(i)).

Behavior Impeding Learning

In the case of the child whose behavior impedes the child's learning or that of others, the admission, review, and dismissal (ARD) committee must consider:

- The use of positive behavioral interventions and supports; and
- Other strategies to address that behavior. (34 CFR 300.324(a)(2)(i)).

Children with Limited English Proficiency

In the case of the child with limited English proficiency, the ARD committee must consider the language need of the child as such needs relate to the child's individualized education program (IEP). The ARD committee must include a professional member of the language proficiency assessment committee (LPAC) to serve on the ARD committee of each child with limited English proficiency. (34 CFR 300.324(a)(2)(ii)).

Children Who Are Deaf or Hard of Hearing

In the case of the child who is deaf or hard of hearing, the ARD committee must consider:

- The child's opportunities for direct communications with peers and professional personnel in the child's language and communication mode;
- The child's language and communication needs;
- The child's academic level; and
- The child's full range of needs, including opportunities for direct instruction in the child's language and communication mode. (34 CFR 300.324(a)(2)(iv)).

Children Who Are 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:

- Provide for reading and writing instruction in Braille and the use of Braille; or
- Determine that instruction in Braille or the use of Braille is not appropriate. (34 CFR 300.324(a)(2)(iii)).

Before placing the child with a visual impairment in a classroom setting, or within a reasonable period of time after placement, the ARD Committee must provide the training specified in Texas Education Code Subsection 30.002(c)(4).

The IEP developed for a child who is visually impaired or functionally blind must comply with the provisions of Texas Education Code Subsections 32.002(c), (e) and (f), as applicable.

Children with Autism or Other Pervasive Developmental Disorder

It is the policy of the Jean Massieu Academy Open Enrollment Charter school to comply with any applicable commissioner rules that may require an open-enrollment charter school to include in the individualized education program (IEP) of a student with autism or another pervasive developmental disorder any information or requirement determined necessary to ensure the student receives a free appropriate public education (FAPE) as required under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. Section 1400 et seq.). (TEC §29.005(e))

Assistive Technology

The ARD committee must consider whether the child needs assistive technology devices (ATDs). On a case-by-case basis, the use of school-purchased ATDs in the child's home or in other settings is required if the child's ARD committee determines that the child needs access to those devices in order to receive free appropriate public education (34 CFR 300.324(a)(2)(v); 20 USC 1414(d)(3)(B)(v)).

Supplementary Aids and Services

The ARD committee must determine needed supplementary aids and services to be provided to the child, or on behalf of the child. (20 U.S.C. §§ 1414(d)(1)(A)(i)IV; 34 C.F.R. 300(a)(4)).

Reaching Closure and Consensus

The ARD committee shall develop the individualized education program by agreement of the committee members or, if those persons cannot agree, by an alternate method provided by the Texas Education Agency. Majority vote may not be used to determine the individualized education program (IEP). (TEC §29.005(b))

If the individualized education program (IEP) is not developed by agreement, the ARD Committee must comply with the requirements of 19 TAC 1050(h) and ensure that the written statement of the program required under 20 U.S.C. §1401(11) includes the basis of the disagreement. (TEC §29.005(c))

If the child's parent is unable to speak English, the open-enrollment charter school shall communicate with the parent in the parent's native language or other mode communication the parent uses in accordance with the school's policy on use of parents' native language.

The admission, review and dismissal (ARD) committee documentation must include materials required by 19 TAC 89.1050(e).

Amendment without a Meeting

After the annual admission, review and dismissal (ARD) meeting, changes to the individualized education program (IEP) other than eligibility determinations, changes of placement, and manifestation determination reviews may be made either:

- By the entire ARD committee; or
- By amending the IEP rather than by redrafting the entire IEP.

Procedural safeguards and prior notices required under 20 U.S.C. 1415(a)–(b) must be written in 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.

(20 U.S.C. 1415(a)–(b), (d); 34 CFR 300.503(c); 34 CFR 300.504(c))

If the parent is unable to speak English and Spanish is the parent's native language, the School shall provide a written or audiotaped copy of the student's IEP translated into Spanish. If the parent's native language is other than Spanish or English, the School shall make a good faith effort to provide a written or audiotaped copy of the student's IEP translated into the parent's native language.

(TEC § 29.005(d); 19 TAC 89.1050(e))

Native language, when used regarding an individual who has limited English proficiency, means the following:

- (1) the language normally used by that person, or, in the case of a child, the language normally used by the child's parents;
- (2) in all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment.

If the parent's native language or other mode of communication is not a written language, the open-enrollment charter school must ensure that:

- (1) the notice is translated for the parent orally or by other means in the parent's native language or other mode of communication;
- (2) the parent understands the content of the notice; and
- (3) there is written evidence that the requirements in paragraphs 1 and 2 have been met.

It is the policy of Jean Massieu Academy Open Enrollment Charter School to determine on a case-by-case basis the most effective mode of communication with parents who are unable to speak English and to deliver information required by state and federal law in that mode.

CHARTER SCHOOL POLICY**NONEDUCATIONAL COMMUNITY BASED
SUPPORT SERVICES**

The Texas Education Agency shall establish procedures and criteria for the allocation of funds appropriated under TEC §29.013 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 an appropriate free public education (FAPE) in the least restrictive environment. (TEC §29.013(a))

It is the policy of the Jean Massieu Academy Open Enrollment Charter school to use funds allocated under TEC §29.013 are used 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. (TEC §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. (TEC §29.013(c))

The provision of services under TEC §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 free appropriate public education (FAPE) in the least restrictive environment. Specifically, services provided under TEC §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. (TEC §29.013(d))

CHARTER SCHOOL POLICY

**COMPLIANCE WITH FEDERAL FUNDING
REQUIREMENTS: IDEA**

It is the policy of Jean Massieu Academy Open-Enrollment Charter School to use IDEA Part B amounts 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, 1413(a)(2)).

It is the policy of Jean Massieu Academy Open-Enrollment Charter School that having complied with MOE and excess costs requirements, IDEA Part B funds provided to the school will be used for the following activities:

1. for the costs of special education and related services, and supplementary aids and services, provided in a regular class or other education-related setting to a child with a disability in accordance with the 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 child find and general administration requirements, including:
 - 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 behavioral and academic support to succeed in a general education environment;

- the school will not use more than 15 percent of the amount received under IDEA Part B for any fiscal year, less any adjustments by the school 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;
3. to establish and implement cost or risk-sharing funds, consortia, or cooperatives for the school itself, or for LEAs working in a consortium of which the school is a part, to pay for high-cost special education and related services consistent with distribution of high-cost risk pool funds;
 4. the school 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.

§§300.208, 1413(a) CFR.

Notwithstanding any other provisions related to commingling of funds, Jean Massieu Academy Open-Enrollment Charter School may use IDEA Part B funds received for any fiscal year to carry out a Title 1, Part A school wide program under the 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 children with disabilities in the jurisdiction of the school; and multiplied by
- the number of children with disabilities participating in the school wide program.

§§300.206, 1413 CFR.

To the extent required under Title 1 of the Elementary and Secondary Education Act, Jean Massieu Academy Open-Enrollment Charter School 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 Elementary and Secondary Education Act, as applicable. Parental involvement is encouraged and required in the planning and decision-making process for the School and for the campus.

Parental Consent for Initial Evaluation

The open-enrollment charter school cannot conduct an initial evaluation of the child to determine whether the child is eligible under Part B of IDEA to receive special education and related services without first providing the parent with prior written notice of the proposed action and obtaining parental consent.

The open-enrollment charter school must make reasonable efforts to obtain the parent's informed consent for an initial evaluation to decide whether the child is a child with a disability.

The parent's consent for initial evaluation does not mean that the parent has also given consent for the open-enrollment charter school to start providing special education and related services to the parent's child.

The open-enrollment charter school may not use the parent's refusal to consent to one service or activity related to the initial evaluation as a basis for denying the parent or the child any other service, benefit, or activity, unless another Part B requirement requires the open-enrollment charter school to do so.

If the child is enrolled in the open-enrollment charter school or the parent is seeking to enroll the child in the open-enrollment charter school and the parent has refused to provide consent or failed to respond to a request to provide consent for an initial evaluation, the open-enrollment charter school may, but is not required to, seek to conduct an initial evaluation of the child by using the IDEA's mediation or due process complaint, resolution meeting, and impartial due process hearing procedures. The open-enrollment charter school will not violate its obligations to locate, identify and evaluate the child if it does not pursue an evaluation of the child in these circumstances.

(34 CFR § 300.9)

Special Rules for Initial Evaluation of Wards of the State

If a child is a ward of the State and is not living with his or her parent, the open-enrollment charter school does not need consent from the parent for an initial evaluation to determine if the child is a child with a disability if:

- (1) despite reasonable efforts to do so, the open-enrollment charter school cannot find the child's parent;
- (2) the rights of the parents have been terminated in accordance with State law; or
- (3) a judge has assigned the right to make educational decisions to an individual other than the parent and that individual has provided consent for an initial evaluation.

Ward of the State, as used in IDEA, means a child who, as determined by the State where the child lives, is:

- (1) a foster child;
- (2) considered a ward of the State under State law; or
- (3) in the custody of a public child welfare agency.

Ward of the State does not include a foster child who has a foster parent who meets the definition of a parent as used in IDEA.

(34 CFR § 300.9)

Parental Consent for Services

The open-enrollment charter school must make reasonable efforts to obtain informed consent from the parent before providing special education and related services to the child for the first time.

If the parent does not respond to a request to provide parental consent to receive special education and related services for the first time, or if the parent refuses to give such consent or later revokes (cancels) consent in

writing, the open-enrollment charter school may not use the procedural safeguards (i.e., mediation, due process complaint, resolution meeting, or an impartial due process hearing) in order to obtain agreement or a ruling that the special education and related services (recommended by the ARD committee) may be provided to the child without the parent's consent.

If the parent refuses to give parental consent for the child to receive special education and related services for the first time, or if the parent does not respond to a request to provide such consent or later revokes (cancels) consent in writing and the open-enrollment charter school does not provide the child with the special education and related services for which it sought the parent's consent, the open-enrollment charter school:

- (1) is not in violation of the requirement to make a free appropriate public education (FAPE) available to the child for its failure to provide those services to the child; and
- (2) is not required to have an ARD meeting or develop an IEP for the child for the special education and related services for which the parent's consent was requested.

If the parent revokes (cancels) the parent's consent in writing at any point after the child is first provided special education and related services, then the open-enrollment charter school may not continue to provide such services, but must provide the parent with prior written notice before discontinuing those services.

Parental Consent for Reevaluations

The open-enrollment charter school must obtain the parent's informed consent before it reevaluates the child, unless the open-enrollment charter school can demonstrate that:

- (1) it took reasonable steps to obtain the parent's consent for the child's reevaluation; and
- (2) the parent did not respond.

If the parent refuses to consent to the child's reevaluation, the open-enrollment charter school may, but is not required to, pursue the child's reevaluation by using the mediation, due process complaint, resolution meeting, and impartial due process hearing procedures to seek to override the parent's refusal to consent to the child's reevaluation. As with initial evaluations, the open-enrollment charter school does not violate its obligations under the IDEA if it declines to pursue the reevaluation in this manner.

Documentation of Reasonable Efforts to Obtain Parental Consent

The open-enrollment charter school must maintain documentation of reasonable efforts to obtain the parent's consent for initial evaluations, to provide special education and related services for the first time, for a reevaluation, and to locate parents of wards of the State for initial evaluations. The documentation must include a record of the open-enrollment charter school's attempts in these areas, 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
- (3) detailed records of visits made to the parent's home or place of employment and the results of those visits.

Parental Consent to Access Public Benefits

It is the policy of the Jean Massieu Academy Open Enrollment Charter School to 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.

Parental Consent for Transfer of Assistive Technology Devices

It is the policy of the Jean Massieu Academy Open Enrollment Charter School to 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.

Other Consent Requirements

Parental consent is not required before the open-enrollment charter school may:

- (1) review existing data as part of the child's evaluation or a reevaluation;
or
- (2) give the child a test or other evaluation that is given to all children unless, before that test or evaluation, consent is required from parents of all children. 34 CFR 300.300(d)

CHARTER SCHOOL POLICY**CONTRACTS FOR SERVICES;
RESIDENTIAL PLACEMENT**

An open-enrollment charter school 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. (TEC §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 open-enrollment charter school's admission, review, and dismissal (ARD) committee, shall be paid from State and federal education funds. (TEC §29.008(c))

An open-enrollment charter school that contracts for the provision of education services rather than providing the services itself shall oversee the implementation of the student's individualized education program and shall annually reevaluate the appropriateness of the arrangement. An approved facility, institution, or agency with whom the open-enrollment charter school contracts shall periodically report to the open-enrollment charter school on the services the student has received or will receive in accordance with the contract as well as diagnostic or other evaluative information that the open-enrollment charter school requires in order to fulfill its obligations under Subchapter A (Special Education), Chapter 29, Texas Education Code. (TEC §29.008(d))

CHARTER SCHOOL POLICY

**COORDINATION OF FUNDS FOR
PURCHASES OF INSTRUCTIONAL MATERIALS**

If Jean Massieu Academy chooses to coordinate with the National Instructional Materials Access Center (NIMAC) when purchasing print instructional materials, it must acquire the print instructional materials in the same manner and subject to the same conditions as the Texas Education Agency acquires print instructional materials.

(34 CFR 300.210(a))

Applicability of Title Relating to Prekindergarten Program

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 prekindergarten programs under Subchapter E (Kindergarten and Prekindergarten Programs), Chapter 29, Texas Education Code. (TEC §12.104(b)(2)(H))

Prekindergarten Program

The open-enrollment charter school's educational program does include a prekindergarten program. The open-enrollment charter school shall comply with Subchapter E (Kindergarten and Prekindergarten Programs), Chapter 29, Texas Education Code in the operation of a prekindergarten program.

Applicability of Title Relating to Reading Instruments and Accelerated Reading Instruction

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 reading instruments and accelerated instruction programs under TEC §28.006 (Reading Diagnosis). (TEC §12.104(b)(2)(C))

The Jean Massieu Academy Open-Enrollment Charter School adopts the requirements of TEC §28.006 (Reading Diagnosis) pursuant to TEC §12.104(b)(2)(G). Where "school school" is used in TEC §28.006, the Jean Massieu Academy Open-Enrollment Charter School hereby substitutes "open-enrollment charter school" to conform to these requirements.

Reading Diagnosis and Accelerated Reading Instruction

The open-enrollment charter school shall administer at the kindergarten and first and second grade levels, a reading instrument as required by TEC §28.006. (TEC §28.006(c) and (f))

The open-enrollment charter school shall administer at the beginning of the seventh grade a reading instrument as required by TEC §28.006. (TEC §28.006(c-1) and (f))

The chief administrative officer of the open-enrollment charter school shall report the results of the reading instruments. (TEC §28.006(d)).

The open-enrollment charter school 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. (TEC §28.006(g))

The open-enrollment charter school shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to those students and shall determine the form, content, and timing of that program. (TEC §28.006 (g))

The admission, review, and dismissal (ARD) committee of a student who participates in an open-enrollment charter school's special education program under the Individuals with Disabilities Education Act (IDEA), and who does not perform satisfactorily on a reading instrument under TEC §28.006 shall determine the manner in which the student will participate in an accelerated reading instruction program under TEC §28.006(g). (TEC §28.006 (g))

The open-enrollment charter school shall provide additional reading instruction and intervention to each student in seventh grade assessed under TEC §28.006(c-1), as appropriate to improve the student's reading skills in the relevant areas identified through the assessment instrument. Training and support for activities required by TEC §28.006(c-

1) shall be provided by regional education service centers (ESC) and teacher reading academies established under TEC §21.4551 (Teacher Reading Academies), and may be provided by other public and private providers. (TEC §28.006 (g-1))

The open-enrollment charter school shall make a good faith effort to ensure that the notice required under TEC §28.006 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. (TEC §28.006 (h))

The Commissioner shall certify, not later than July 1 of each school year or as soon as practicable thereafter, whether sufficient funds have been appropriated statewide for the purposes of TEC §28.006. A determination by the Commissioner is final and may not be appealed. For purposes of certification, the Commissioner may not consider Foundation School Program funds. (TEC §28.006 (i))

No more than 15 percent of the funds certified by the Commissioner under TEC §28.006(i) may be spent on indirect costs. The Commissioner shall evaluate the programs that fail to meet the standard of performance under TEC §39.301(c)(5) (Review by Commissioner: Accountability Ratings) and may implement interventions or sanctions under Subchapter E (Accreditation Interventions and Sanctions), Chapter 39, Texas Education Code. The Commissioner may audit the expenditures of funds appropriated for purposes of TEC §28.006. The use of the funds appropriated for purposes of TEC §28.006 shall be verified as part of the open-enrollment charter school audit under TEC §44.008 (Annual Audit; Report). (TEC §28.006(j))

The provisions of TEC §28.006 relating to parental notification of a student's results on the reading instrument and to implementation of an accelerated reading instruction program may be implemented only if the Commissioner certifies that funds have been appropriated during a school year for administering the accelerated reading instruction program specified under this TEC §28.006. (TEC §28.006(k))

Reading Diagnosis and Intensive Programs of Instruction

The Jean Massieu Academy Open-Enrollment Charter School adopts the requirements of TEC §28.0213 (Intensive Program of Instruction) pursuant to TEC §12.104(b)(2)(N). Where "school" is used in TEC §28.0213, the Jean Massieu Academy Open-Enrollment Charter School hereby substitutes "open-enrollment charter school" to conform to these requirements.

Satisfactory Performance on Assessment Instruments Required; Accelerated Instruction

Each time a student fails to perform satisfactorily on an assessment instrument administered under TEC §39.023(a) (Adoption and Administration of Instruments) in the third, fourth, fifth, sixth, seventh, or eighth grade, the open-enrollment school in which the student attends school shall provide to the student accelerated instruction in the applicable subject area. Accelerated instruction may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations. (TEC §28.0211(a-1))

The Commissioner shall provide guidelines to open-enrollment charter school on research-based best practices and effective strategies that an open-enrollment charter school may use in developing an accelerated instruction program. (TEC §28.0211(a-3))

The admission, review, and dismissal (ARD) committee of a student who participates in an open-enrollment charter school's special education program under Subchapter B (Bilingual Education and Special Language Programs), Chapter 29, Texas Education Code and who does not perform satisfactorily on an assessment instrument specified under TEC §28.0211(a) and administered under TEC §39.023(a) or (b) (Adoption and Administration

of Instruments) shall determine the manner in which the student will participate in an accelerated instruction program under TEC §28.0211. (TEC §28.0211(i)(1))

An open-enrollment charter school shall provide students required to attend accelerated programs under TEC §28.0211 with transportation to those programs if the programs occur outside of regular school hours. (TEC §28.0211(j))

CHARTER SCHOOL POLICY**APPLICABILITY OF TEXAS EDUCATION CODE
RELATING TO SPECIAL EDUCATION*****Applicability of Texas Education Code Relating to Special 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 special education programs under Subchapter A (Special Education Program), Chapter 29, Texas Education Code. (TEC §12.104(b)(2)(F)). The Jean Massieu Academy Open-Enrollment Charter School adopts the requirements of Subchapter A (Special Education Program), Chapter 29, Texas Education Code pursuant to TEC §12.104(b)(2)(F).

Assurance

Pursuant to the Individuals with Disabilities in Education Act, open-enrollment charter schools must submit a plan to the Texas Education Agency that provides assurances that the open-enrollment charter school has in effect policies, procedures, and programs that are consistent with the State policies and procedures governing special education.

(20 USCA §1413(a)(1); 34 CFR §§300.200-201)

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to ensure that—

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

These requirements apply to:

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

An open-enrollment charter school 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. (TEC §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 open-enrollment charter school's admission, review, and dismissal (ARD) committee, shall be paid from State and federal education funds. (TEC §29.008(c))

An open-enrollment charter school that contracts for the provision of education services rather than providing the services itself shall oversee the implementation of the student's individualized education program and shall annually reevaluate the appropriateness of the arrangement. An approved facility, institution, or agency with whom the open-enrollment charter school contracts shall periodically report to the open-enrollment charter school on the services the student has received or will receive in accordance with the contract as well as diagnostic or other evaluative information that the open-enrollment charter school requires in order to fulfill its obligations under Subchapter A (Special Education), Chapter 29, Texas Education Code. (TEC §29.008(d))

Applicability of Title Relating to Prekindergarten Program

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 prekindergarten programs under Subchapter E (Kindergarten and Prekindergarten Programs), Chapter 29, Texas Education Code. (TEC §12.104(b)(2)(H))

Prekindergarten Program

The open-enrollment charter school's educational program does include a prekindergarten program. The open-enrollment charter school shall comply with Subchapter E (Kindergarten and Prekindergarten Programs), Chapter 29, Texas Education Code in the operation of a prekindergarten program.

Applicability of Title Relating to Reading Instruments and Accelerated Reading Instruction

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 reading instruments and accelerated instruction programs under TEC §28.006 (Reading Diagnosis). (TEC §12.104(b)(2)(C))

The Jean Massieu Academy Open-Enrollment Charter School adopts the requirements of TEC §28.006 (Reading Diagnosis) pursuant to TEC §12.104(b)(2)(G). Where "school school" is used in TEC §28.006, the Jean Massieu Academy Open-Enrollment Charter School hereby substitutes "open-enrollment charter school" to conform to these requirements.

Reading Diagnosis and Accelerated Reading Instruction

The open-enrollment charter school shall administer at the kindergarten and first and second grade levels, a reading instrument as required by TEC §28.006. (TEC §28.006(c) and (f))

The open-enrollment charter school shall administer at the beginning of the seventh grade a reading instrument as required by TEC §28.006. (TEC §28.006(c-1) and (f))

The chief administrative officer of the open-enrollment charter school shall report the results of the reading instruments. (TEC §28.006(d)).

The open-enrollment charter school 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. (TEC §28.006(g))

The open-enrollment charter school shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to those students and shall determine the form, content, and timing of that program. (TEC §28.006 (g))

The admission, review, and dismissal (ARD) committee of a student who participates in an open-enrollment charter school's special education program under the Individuals with Disabilities Education Act (IDEA), and who does not perform satisfactorily on a reading instrument under TEC §28.006 shall determine the manner in which the student will participate in an accelerated reading instruction program under TEC §28.006(g). (TEC §28.006 (g))

The open-enrollment charter school shall provide additional reading instruction and intervention to each student in seventh grade assessed under TEC §28.006(c-1), as appropriate to improve the student's reading

skills in the relevant areas identified through the assessment instrument. Training and support for activities required by TEC §28.006(c-1) shall be provided by regional education service centers (ESC) and teacher reading academies established under TEC §21.4551 (Teacher Reading Academies), and may be provided by other public and private providers. (TEC §28.006 (g-1))

The open-enrollment charter school shall make a good faith effort to ensure that the notice required under TEC §28.006 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. (TEC §28.006 (h))

The Commissioner shall certify, not later than July 1 of each school year or as soon as practicable thereafter, whether sufficient funds have been appropriated statewide for the purposes of TEC §28.006. A determination by the Commissioner is final and may not be appealed. For purposes of certification, the Commissioner may not consider Foundation School Program funds. (TEC §28.006 (i))

No more than 15 percent of the funds certified by the Commissioner under TEC §28.006(i) may be spent on indirect costs. The Commissioner shall evaluate the programs that fail to meet the standard of performance under TEC §39.301(c)(5) (Review by Commissioner: Accountability Ratings) and may implement interventions or sanctions under Subchapter E (Accreditation Interventions and Sanctions), Chapter 39, Texas Education Code. The Commissioner may audit the expenditures of funds appropriated for purposes of TEC §28.006. The use of the funds appropriated for purposes of TEC §28.006 shall be verified as part of the open-enrollment charter school audit under TEC §44.008 (Annual Audit; Report). (TEC §28.006(j))

The provisions of TEC §28.006 relating to parental notification of a student's results on the reading instrument and to implementation of an accelerated reading instruction program may be implemented only if the Commissioner certifies that funds have been appropriated during a school year for

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--(i) 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.

Compliance with Federal and State Personnel Standards for Individuals Serving Children with Disabilities

It is the policy of this [name] Charter School to ensure that personnel standards for all individuals serving children with disabilities are met in accordance with the IDEA and its procedures.

The Jean Massieu Academy Open Enrollment Charter School recognizes that both the No Child Left Behind 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. §7801(23) (A) (i); 20 U.S.C. §1401(10) (B) (i). In Texas, that means that the charter school special education teacher must be certified and highly qualified.

It is the policy of the Jean Massieu Academy Open Enrollment Charter School to 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 children with disabilities who are

eligible for special education services. Special education staffing needs come from the individualized decisions made by the ARD committee.

It is the policy of the Jean Massieu Academy Open Enrollment Charter School to 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.

The Charter School uses many strategies, including the following, for accessing adequately certified and/or licensed personnel:

Strategy	Check with an X if applicable
Hiring faculty with dual certification and/or licensure	X
Hiring consultants to provide special education services	X
Hiring retired teachers to work part-time to deliver special education services	X
Developing collaborative agreements with other local educational agencies (LEAs), including with other charter schools to share special education teachers and related service providers	X
Forming partnerships with institutions and/or agencies that employ related services professionals	X

The Jean Massieu Academy Charter School adopts as policy the provisions under State and Federal law concerning personnel, including:

In order to be highly qualified under the federal No Child Left Behind Act (NCLB), all open-enrollment charter school teachers must hold at least a bachelor's degree and must demonstrate competency in the core academic areas in which they teach. Special education charter school teachers must also have appropriate special education teacher certification to be highly qualified under the NCLB. See *TEA Guidance for the Implementation of NCLB Highly Qualified Teacher Requirements* (Updated March 25, 2008).

NCLB does not require that other charter school teachers be fully certified. Rather, 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 high school diploma. However, the governing body of a charter holder may set the qualifications for teachers at a standard above what State law requires. See *TEA Guidance for the Implementation of NCLB Highly Qualified Teacher Requirements* (Updated March 25, 2008).

In order for a open-enrollment charter school teacher in Texas to be considered "highly qualified" under NCLB, the teacher must meet the State certification requirements as they apply to open-enrollment charter schools, as well as the NCLB requirements related to the bachelor's degree and the demonstration of competency. Open-enrollment charter school teachers have the same options for demonstrating competency as teachers in regular public schools. See *TEA Guidance for the Implementation of NCLB Highly Qualified Teacher Requirements* (Updated September 1, 2010).

Texas Education Code Charter School Certification Requirements	No Child Left Behind Charter School Highly Qualified Requirements
High School Diploma required for all charter school teachers	Bachelor's degree required for all teachers in core academic subject areas
Certification only required for— Special Education Bilingual Education	Follow State certification requirements for charter schools
	Demonstrate competency according to requirements for elementary or

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	secondary teachers, as appropriate
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The open-enrollment charter school shall not employ a person as a teacher unless that person holds a high school diploma. (TEC §12.129)

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; TEC §§21.002, 21.003, and 29.304; or appropriate state agency credentials. (19 T.A.C. §89.1131(a))

Notice of Teacher Qualifications

Each open-enrollment charter school shall provide to the parent or guardian of each student enrolled in the school written notice of the qualifications of each teacher employed by the school.

Applicability of Texas Education Code Relating to Discipline Management Practices or Behavior Management Techniques

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 discipline management practices or behavior management techniques under TEC §37.0021 (Use of Confinement, Restraint Seclusion, and Time-Out). (TEC §12.104(b)(2)(J))

The Jean Massieu Academy Open-Enrollment Charter School adopts the requirements of TEC §37.0021 (Use of Confinement, Restraint Seclusion, and Time-Out) pursuant to TEC §12.104(b)(2)(J). Where "school" is used in TEC §37.0021 (Use of Confinement, Restraint Seclusion, and Time-Out), the Jean Massieu Academy Open-Enrollment Charter School hereby substitutes "open-enrollment charter school" to conform to these requirements.

Use of Confinement, Restraint, Seclusion, and Time-Out

It is the policy of this State to treat with dignity and respect all students, including students with disabilities who receive special education services under Subchapter A (Special Education Program), Chapter 29, Texas Education Code. A student with a disability who receives special education services under Subchapter A (Special Education Program), Chapter 29, Texas Education Code, 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. (TEC §37.0021(a))

In TEC §37.0021:

- (1) "Restraint" means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student's body.
- (2) "Seclusion" means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:
 - (A) is designed solely to seclude a person; and
 - (B) contains less than 50 square feet of space.
- (3) "Time-out" means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:
 - (A) that is not locked; and
 - (B) from which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

(TEC §37.0021(b))

An open-enrollment charter school employee or volunteer or an independent contractor of an open-enrollment charter school may not place a student in seclusion. TEC §37.0021(c) does not apply to the use of seclusion in a court-ordered placement, other than a placement in an educational program of an open-enrollment charter school, or in a placement or facility to which the following law, rules, or regulations apply:

- (1) the Children's Health Act of 2000, Pub. L. No. 106-310, any subsequent amendments to that Act, any regulations adopted under that Act, or any subsequent amendments to those regulations;
- (2) 40 T.A.C. Sections 720.1001-720.1013; or
- (3) 25 T.A.C. Section 412.308(e).

(TEC §37.0021(c))

Nothing in this policy prevents 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.

(TEC §37.0021(f))

It is the policy of Jean Massieu Academy Open-Enrollment Charter School to comply with the procedures adopted in 19 TAC §89.1053 for the use of restraint and time-out by an open-enrollment charter school employee or volunteer or an independent contractor of an open-enrollment charter school in the case of a student with a disability receiving special education services under Subchapter A (Special Education Program), Chapter 29, Texas Education Code.

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to ensure that children with disabilities (including a child not yet eligible if the school had knowledge prior to the disciplinary conduct that the child was a child with a disability under the IDEA and meets the standards for receiving protection under the IDEA) are disciplined for a violation of the student code of conduct in accordance with the IDEA, including with respect to any disciplinary removal from the current educational placement to an appropriate interim alternative educational setting, another setting, suspension, or expulsion.

Student Code of Conduct

The governing body of an open-enrollment charter school shall adopt a code of conduct for its school or for each campus. In addition to establishing standards for behavior, the code of conduct shall outline generally the types of prohibited behaviors and their possible consequences. The code of conduct shall also outline the school's due process procedures with respect

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to expulsion. Notwithstanding any other provision of law, a final decision of the governing body of an open-enrollment charter school with respect to actions taken under the code of conduct may not be appealed. (TEC §12.131(a))

An open-enrollment charter school may not elect to expel a student for a reason that is not authorized by TEC §37.007 (Expulsion for Serious Offenses) or specified in the school's code of conduct as conduct that may result in expulsion. (TEC §12.131(b))

In accordance with 20 U.S.C. §7151, a local educational agency, including an open-enrollment charter school, shall expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that:

- (1) the superintendent or other chief administrative officer of the local educational agency, as defined by 20 U. S.C. Section 7801, may modify the length of the expulsion in the case of an individual student;
- (2) the local educational agency shall provide educational services to an expelled student in a disciplinary alternative education program as provided by TEC §37.008 (Disciplinary Alternative Education Programs) if the student is younger than 10 years of age on the date of expulsion; and
- (3) the local educational agency may provide educational services to an expelled student who is 10 years of age or older in a disciplinary alternative education program as provided in TEC §37.008 (Disciplinary Alternative Education Programs).

(TEC §37.007(e))

Subject to TEC §37.007(e), notwithstanding any other provision of TEC §37.007, a student who is younger than 10 years of age may not be expelled for engaging in conduct described by TEC §37.007. (TEC §37.007(h))

Notwithstanding any other provision, TEC §37.002 (Removal by Teacher) and its provisions, wherever referenced, are not applicable to an open-enrollment charter school unless the governing body of the school so determines. (TEC §12.131(c))

Authority of School Personnel

Removal for Fewer than 10 days

School personnel may remove the child with a disability who violates the code of conduct from his or her current placement to an appropriate interim alternative educational setting (IAES), another setting, or suspension, for not more than 10 consecutive school days to the extent those alternatives are applied to children without disabilities.

School personnel may remove the child with a disability who violates the code of conduct from his or her current placement for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct as long as those removals do not constitute a change of placement.

Removal for More than 10 days

School personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures that would be applied to children without disabilities, if:

- In the manifestation determination review, the behavior that gave rise to the violation of the code of conduct is determined not to be a manifestation of the child's disability;
- Services during periods of removal are provided to the child; and
- Notification of a change of placement is given to the child's parents.

School personnel must provide the parents of the child removed to a disciplinary alternative education program with written notice of the school's obligation to provide the child with an opportunity to complete coursework required for graduation that:

- Includes information regarding all methods available for completing the coursework; and
- States that the methods available for completing the coursework are available at no cost to the child.

(34 CFR 300.530; 20 USC 1415(k)(1))

School personnel may remove the child to an interim alternative educational setting without regard to whether the behavior is determined to be a manifestation of the child's disability in accordance with 34 CFR 300.530(g) and 20 USC 1415(k)(1)(G)

Limitation on General Authority

A child with a disability may not be disciplined for bullying, harassment, or making hit lists until an admission, review, and dismissal committee meeting has been held to review the conduct.

Notice of Disciplinary Action

A charter holder shall notify the school in which the student resides within three business days of any action expelling or withdrawing a student from the charter school.

(TEC §12.131(b))

For purposes of TEC §37.022:

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- (1) "Disciplinary action" means a suspension, expulsion, placement in an alternative education program, or other limitation in enrollment eligibility of a student by a school or school. (TEC §37.022(a)(1))
- (2) "School or school" includes an independent school, a home-rule school, a campus or campus program charter holder, or an open-enrollment charter school. (TEC §37.022(a)(2))

If a school or school takes disciplinary action against a student and the student subsequently enrolls in another school or school before the expiration of the period of disciplinary action, the governing body of the school or school taking the disciplinary action shall provide to the school or school in which the student enrolls, at the same time other records of the student are provided, a copy of the order of disciplinary action. (TEC §37.022(b))

Subject to TEC §37.007(e), the school or school in which the student enrolls may continue the disciplinary action under the terms of the order or may allow the student to attend regular classes without completing the period of disciplinary action. (TEC §37.022(c))

Teacher-Requested Review of Individual Education Program

In addition to the statewide plan for the delivery of services to children with disabilities Jean Massieu Academy Open-Enrollment Charter School will develop process for use by a teacher who instructs a student with a disability in a regular classroom setting that:

- (1) requests a review of the student's individualized education program (IEP);
- (2) provides for a timely response to the teacher's request; and
- (3) provides for notification to the student's parent or legal guardian of that response.

(TEC §29.001(11))

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to administer assessment instruments adopted under Subchapter B, Chapter 39 Texas Education Code in accordance with the requirements of that subchapter and rules adopted thereunder.

It is the policy of the Jean Massieu Academy Open-Enrollment Charter School to comply with all procedures published by the Texas Education Agency (TEA) in its annual test administration manuals with regard to test security and confidentiality. Procedures can be found in the *Test Security Supplement* at the following link:

http://www.tea.state.tx.us/index3.aspx?id=3206&menu_id3=793

The chief executive of the school shall be responsible for ensuring that:

- Procedures are developed to ensure the security and confidentiality of state assessments in compliance with all requirements established by TEA.
- District and campus testing personnel are trained in test security and confidentiality, as well as test administration procedures, in accordance with TEA's published requirements.
- Any violation of the state's security or confidentiality procedures is reported to TEA in accordance with established procedures.

TEA's Test Security Supplement shall serve as the "best practices" document to guide the school in the implementation of this policy.

CHARTER SCHOOL POLICY

**TRANSFER OF PARENTAL RIGHTS
AT AGE OF MAJORITY**

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, except that the open-enrollment charter school shall provide any notice required by this subchapter or 20 U.S.C. §1415 to both the student and the parents. All other rights accorded to parents under Subchapter A (Special Education), Chapter 29, Texas Education Code, or 20 U.S.C. §1415 transfer to the student. (TEC §29.017(a))

All rights accorded to parents under this Subchapter A (Special Education), Chapter 29, Texas Education Code, or 20 U.S.C. §1415 transfer to students who are incarcerated in an adult or juvenile, State or local correctional institution. (TEC §29.017(b))

In accordance with 34 C.F.R. §300.517, the open-enrollment charter school shall notify the student and the parents of the transfer of rights under TEC §29.017. (TEC §29.017(c))

The Commissioner shall adopt rules implementing the provisions of 34 C.F.R. §300.517(b). (TEC §29.017(d))

Procedures for compliance with federal requirements relating to transition services for students who are enrolled in special education programs under Subchapter A (Special Education), Chapter 29, Texas Education Code, must specify the manner in which a student's admission, review, and dismissal (ARD) committee must consider, and if appropriate, address the following issues in the student's 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 parental involvement in the student's transition;
- (3) if the student is at least 18 years of age, appropriate parental involvement in the student's transition, if the parent is invited to participate by the student or the open-enrollment charter school in which the student is enrolled;
- (4) any postsecondary education options;
- (5) a functional vocational evaluation;
- (6) employment goals and objectives;
- (7) if the student is at least 18 years of age, the availability of age-appropriate instructional environments;
- (8) independent living goals and objectives; and
- (9) appropriate circumstances for referring a student or the student's parents to a governmental agency for services.

(TEC §29.011)

It is the policy of Jean Massieu Academy to comply with rules adopted by the Commissioner governing procedures related to transition services.

19 TAC §89.1055(g)

Jean Massieu Academy will ensure that beginning not later than the first individualized education program (IEP) to be in effect when a student turns 14 (or younger, if determined appropriate by the admission, review, and dismissal [ARD] committee) updated annually, the student's IEP shall include:

Appropriate, measurable post-secondary goals based on age appropriate transition assessments related to training, education, employment and, where appropriate, independent living skills; and

The transition services, including courses of study, needed to assist the child in reaching these goals.

If a participating agency other than the open-enrollment charter school fails to provide the transition services described in the IEP, the school shall reconvene the ARD committee to identify alternative strategies to meet the transition objectives.

If the ARD committee determines that work placement is an appropriate transition service, such placement must be addressed in the IEP and must accord with LRE requirements. The ARD committee must consider and the charter school will supply identified supplementary aids and services necessary to enable the student to participate with other disabled and non-disabled students in the work place. Written notice is required prior to the initiation or change of a work placement.

Summary of Academic Achievement and Functional Performance

It is the policy of Jean Massieu Academy Open-Enrollment Charter School to 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.

CHARTER SCHOOL POLICY

SHARED SERVICES ARRANGEMENTS

An open-enrollment charter schools may enter into a written contract to jointly operate their special education programs. The contract must be approved by the Commissioner. 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. (TEC §29.007)