TEJANO CENTER FOR COMMUNITY CONCERS
DBA
RAUL YZAGUIRRE SCHOOLS FOR SUCCESS
BOARD POLICY MANUAL
POLICY GROUP 5 – FISCAL MANAGEMENT

PG-5.490: EMPLOYEE ASSISTANCE PROGRAM

Sec. 1. PURPOSE OF POLICY.

Through this policy, the Board of Directors (hereafter, the "Board") of Tejano Center for Community Concerns doing business as Raul Yzaguirre Schools for Success (hereafter, the "School") is addressing the legal requirements, as applicable, promulgated at:

(a) Texas Constitution, Article III, Sec. 50, 51, 52, and 53;
(b) Texas Business Organizations Code ("Tex. Bus. Org. Code") §§ 3.101, 22.201, 22.221 and 22.235;
(c) Texas Education Code ("Tex. Ed. Code") §§ 12.102, 12.107(a), 12.115(a)(2), 12.1162(a)(2), 12.121 and 12.128(a); and
(d) Texas Administrative Code, Title 19 ("19 TAC"), §§ 100.1043(a), 100.1047(b)(1)-(2) and (e)-(g), 100.1063(a)-(c), and 100.1101.

Additionally, through this policy, the Board addresses best practices adopted by public schools.

Sec. 2. AUTHORITY OVER FISCAL MATTERS.

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

Sec. 2.2. The Delegate, as defined in Sec. 3.2 of the Controlling Policy, must report to the Board any business arrangement or transaction with an individual that is an officer, as defined in Sec. 5 of the Controlling Policy, and any conflicted,[1] interested[2] or related[3] party, as defined in other Board policy or applicable law. The School and its officers may not enter into a business arrangement or conduct a transaction in such a manner so as to circumvent this requirement.

Sec. 2.3. As established in Sec. 4 of the Controlling Policy, where the Delegate is authorized to confer authority to a designee (as denoted by the phrase "or designee"), the Delegate may confer such authority to a single designee.

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1 Tex. Ed. Code § 12.1054; 19 TAC §§ 100.1131 through 100.1135
2 19 TAC § 100.1047(f)
3 Tex. Ed. Code § 12.1166

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Sec. 3. APPLICABILITY OF POLICY.

Sec. 3.1. This policy applies to philanthropic funds and to Foundation School Program funds received by the School ("FSP Funds"), including cash, currency, funds, bank accounts, securities, and other investments constituting public property.[4]

Sec. 3.2. This policy does not apply to Federal funds or state grant funds.

Sec. 4. LIMITATION OF POLICY.

This policy is limited to qualified and highly effective personnel. *See* Sec. 9 of this policy.

Sec. 5. INTENT AND PUBLIC PURPOSE OF POLICY.

Sec. 5.1. Through this policy, the Board recognizes that the School must retain qualified and highly effective personnel for the benefit of the School's students.[5] The Board further understands that School personnel may experience setbacks that may prompt them to separate from employment with the School or take other action that may not benefit the School's students. Finally, the Board realizes that an unfavorable consequence to the School's students may be averted through the provision of temporary financial assistance to the affected personnel. Accordingly, the Board finds that the public purpose of this policy is to provide the School's students with quality instruction by ensuring that the School retains qualified and highly effective personnel. The Board also finds that the public will receive a clear benefit in return through the quality education received by students from the qualified and highly effective personnel retained. Further, for the reasons stated above, the Board finds that expenses made pursuant to this policy are necessary in the conduct of public schools overseen by the Board.

Sec. 5.2. The Board finds that:

(a) the predominant purpose for providing temporary financial assistance to qualified and highly effective personnel is to accomplish a public purpose[6] and not to benefit private parties;[7]
(b) the public purpose declared under Sec. 5.1 of this policy is consistent with that established in state law under Tex. Ed. Code §§ 4.001(b),[8] 12.001(a)(3),[9] and 45.105(c)[10];

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4 Tex. Ed. Code §§ 12.106(a), 12.107(a)(1), and 12.128(a); 19 TAC § 100.1001(6)(D)
5 Tex. Ed. Code §§ 12.102(1), 12.107(a)(2), and 12.128(a)
6 Tex. Att'y Gen. Op. No. GA-0743 (2009)
7 Tex. Att'y Gen. Op. No. GA-0076 (2003)
8 Objective 6: Qualified and highly effective personnel will be recruited, developed, and retained.
9 The purposes of [Chapter 12] are to[…] create professional opportunities that will attract new teachers to the public school system;
10 Except as otherwise prohibited, for other purposes necessary in the conduct of the public schools determined by the Board.

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(c) the use of FSP funds must provide a clear, public benefit in return;[11]
(d) the temporary financial assistance authorized by the Board under this policy does not constitute the lending of the state's credit to an individual if the requirements of this policy are strictly observed;[12] and
(e) sufficient control must be retained to ensure that the public purpose is accomplished, and a return benefit is received, if the requirements of this policy are strictly observed.[13]

Sec. 6. COMMUNITY RESOURCES; PHILANTHROPIC FUNDING.

Prior to using FSP Funds, the Delegate or designee must identify community resources and providers of emergency, transitional, and permanent housing and social services and inform the affected employee of said resources and providers. After the community resources and providers have been exhausted, the Delegate or designee may use private philanthropic funds, including the Employee Assistance Fund established under Sec. 7 of this policy.

Sec. 7. EMPLOYEE ASSISTANCE FUND.

Sec. 7.1. The Delegate or designee may establish an Employee Assistance Fund and may solicit and encourage voluntary contributions from School personnel to provide temporary financial assistance to their colleagues. Such voluntary contributions to establish and sustain an Employee Assistance Fund can be recurring and nominal.

Sec. 7.2. The Delegate or designee must maintain separate and distinct accounting, auditing, budgeting, recordkeeping, reporting systems for the Employee Assistance Fund. Notably, the Delegate or designee must uniquely identify the fund with a locally defined net asset (fund) code.[14]

Sec. 7.3. The School's independent auditor must annually audit the fund.[15]

Sec. 8. FSP FUNDS AUTHORIZED.

In accordance with Sec. 8 of this policy, the Delegate may authorize the use of FSP Funds after the community resources and providers and philanthropic funds required under Sec. 6 of this policy have been exhausted. The Delegate must limit the aggregate allocation of FSP Funds to an amount not exceeding five thousand dollars ($5,000.00). If the Delegate determines that an additional allocation of FSP Funds is necessary, the Delegate must submit to the Board for its consideration either a proposed amendment to this Sec. 8 or a written request for a temporary increase.

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11 Tex. Att'y Gen. Op. No. KP-0099 (2016)
12 Tex. Att'y Gen. Op. No. GA-0743 (2009)
13 Tex. Att'y Gen. Op. No. GA-0076 (2003)
14 Tex. Att'y Gen. Op. No. GA-0076 (2003), GA-0743 (2009) and KP-0099 (2016)
15 *Ibid*

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Sec. 9. ELIGIBILITY.

The Delegate may approve temporary financial assistance to an employee demonstrating quality and effective performance, as documented in the employee's performance evaluation maintained in their personnel file.

Sec. 10. WRITTEN REQUEST; APPROVAL OR DENIAL.[16]

An employee interested in temporary financial assistance must submit a written request in the form adopted by the Delegate. The Delegate may approve or deny the employee's written request. To approve the request, the Delegate must conclude that the public purpose under Sec. 5.1 of this policy has been met.

Sec. 11. AGREEMENT REQUIRED.[17]

Upon approval, the employee must sign and date an agreement in the form adopted by the Delegate. At a minimum, the employee must agree to the following terms and conditions:

(a) Repay the temporary financial assistance through automatic deductions from the employee's salary or wages over a period not exceeding twenty-four (24) months from the date the employee receives the funds.
(b) Continue employment with the School until the temporary financial assistance is repaid in full.
(c) In the event that the employee separates from employment with the School prior to the repayment of the temporary financial assistance, authorize the garnishment of the employee's final payroll disbursement for the outstanding amount.
(d) Acknowledge that any temporary financial assistance amount outstanding that is not repaid within thirty (30) calendar days from the date that the employee separates from employment with the School will be reported to the U.S. Internal Revenue Service as taxable income.

Sec. 12. TRAINING AND UPDATES.[18]

The Delegate or designee must properly train officers and employees on the requirements of this policy and any administrative procedure(s) adopted to implement this policy. Additionally, the Delegate or designee must keep officers and employees informed of any changes to this policy and related requirements.

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16 *Ibid.*
17 *Ibid.*
18 Tex. Ed. Code §§ 12.115(a)(2) and 12.1162(a)(2)

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Sec. 13. ADMINISTRATIVE PROCEDURES.[19]

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

Sec. 14. DATE ADOPTED AND EFFECTIVE.

As set forth in the pertinent minutes to the meeting of the Board, the Board adopted this policy on MDY and became effective on MDY.

Sec. 15. RETENTION.[20]

This policy will be retained until superseded, expired, or discontinued and for five (5) years thereafter.

Sec. 16. CERTIFICATION.

The Undersigned, being the Secretary of the Corporation, hereby certifies that the foregoing represents a true copy of the Board Policy relating to the Employee Assistance Program, as

[19] Tex. Ed. Code § 12.115(a)(2); FASRG Module 2; 2 CFR § 200.303(a). Consistent with 19 TAC § 100.1033(b)(14)(C)(iv), the Board has the final authority to adopt policies governing charter school operations, including authorizing the Delegate or designee to adopt an administrative procedure to implement this policy. Moreover, as set forth in the School's Certificate of Formation and Bylaws and in accordance with Tex. Bus. Org. Code §§ 3.101 and 22.201, the Board is the School's governing authority and, as such, manages and directs the School's business and affairs through Board actions, resolutions and policy.

[20] Tex. Ed. Code § 12.1052; 19 TAC § 100.1203; *See* Record Number GR1000-38 and GR1025-25 in Local Schedule GR: Records Common to All Local Governments, Revised 5th Edition (Effective April 17, 2016) adopted by the Texas State Library and Archives Commission at Texas Administrative Code, Title 13, § 7.125(a)(1).

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originally adopted by the Board on MDY, which Policy is in full force and effect and has not been revoked or amended.

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[INSERT NAME HERE.], Secretary

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Date Certified

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