Sec. 1. APPLICABILITY OF TEXAS EDUCATION CODE

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the Texas Education Code relating to special education programs. *Education Code 12.104(b)(2)(F).*

Raul Yzaguirre Schools for Success ("RYSS") shall comply with the requirements for monitoring compliance with federal and state laws relating to special education pursuant to Texas Education Code Section 29.010.

Sec. 2. ASSURANCE

Open-enrollment charter schools must submit a plan to the Texas Education Agency that provides assurances that the charter school has in effect policies, procedures and programs that are consistent with the State and Federal policies and procedures governing special education. *20 U.S.C. 1413(a); 34 CFR 300.200-.201*.

Sec. 3. PUBLIC EDUCATION INFORMATION MANAGEMENT SYSTEM (PEIMS)

"Most of the data TEA requests from school districts and charter schools are gathered using the Public Education Information Management System ("PEIMS"). PEIMS data are used for the Texas Academic Performance Reports ("TAPR"), Foundation School Program ("FSP"), statistical purposes, federal reporting, legislative requests, and audit purposes. Through PEIMS, schools report data including student demographic and academic performance, student attendance, personnel information, financial data, and organizational information." *Texas Open-Enrollment Charter School Handbook* (TEA, Division of Charter School Administration, September 2011).

Sec. 4. APPLICABILITY OF TITLE RELATING TO THE PEIMS

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the Texas Education Code, relating to the PEIMS to the extent necessary to monitor compliance with Subchapter D (Open-Enrollment Charter School), Chapter 12, Texas Education Code. *Education Code 12.104(b)(2)(A).*

The Superintendent or designee shall prepare required PEIMS submissions in accordance with PEIMS Data Standards and Module 10 of the Financial Accountability System Resource Guide. The Superintendent or designee may collaborate with the regional education service center in preparing and timely submitting PEIMS reports.

Sec. 5. CONTRACTS FOR SERVICES; RESIDENTIAL PLACEMENT

RYSS 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

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placement must be approved by the Commissioner. The Commissioner may approve a residential placement contract only after at least a programmatic evaluation of personnel qualifications, adequacy of physical plant and equipment, and curriculum content. The Commissioner may approve either the whole or a part of a facility or program. *Education Code 29.008(a).*

When a student, including one for whom the State is managing conservator, is placed primarily for care or treatment reasons in a private residential facility that operates its own private education program, none of the costs may be paid from public education funds. If a residential placement primarily for care or treatment reasons involves a private residential facility in which the education program is provided by the open-enrollment charter school, the portion of the costs that includes appropriate education services, as determined by the admission, review, and dismissal ("ARD") committee, shall be paid from State and Federal education funds. *Education Code 29.008(c).*

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

Sec. 6. FACILITIES

Any construction of new facilities or alteration of existing facilities with authorized Individuals with Disabilities Education Act ("IDEA") program funds must comply with the requirements of:

- Appendix A of Part 36 of Title 28, Code of Federal Regulations (commonly known as the *Americans with Disabilities Accessibility Guidelines for Buildings and Facilities*); and
- Appendix A of Subpart 101-19.6 of Title 41, Code of Federal Regulations (commonly known as the *Uniform Federal Accessibility Standards*).

Sec. 7. ADMINISTRATION OF EQUIPMENT

The ARD committee must consider whether the student needs assistive technology devices ("ATDs") as part of the student's special education, related services, or supplementary aids and services. On a case-by-case basis, the use of school-purchased ATDs in the student's home or in other settings is required if the student's ARD committee determines that the student needs access to those devices in order to receive free appropriate public education. *34 CFR 300.105; 300.324(a)(2)(v); 20 USC 1414(d)(3)(B)(v)*

Assistive technology means any device or equipment used to improve or maintain the function capabilities of a student with a disability. Assistive technology does not include a medical device that is surgically implanted. *34 CFR 300.5-300.6*

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RYSS may transfer an ATD in accordance to TEC 30.0015. The transfer agreement must include the standards in TEC 30.0015, including the following:

1) The transferor and transferee must represent and agree that the terms of the transfer are based on the fair market value of the ATD, determined in accordance with generally accepted accounting principles.
2) The informed consent of the parent of the student with a disability, or the adult student, for whom the ATD is being transferred must be obtained before the transfer of an ATD pursuant to TEC 30.0015. The procedures employed by RYSS in obtaining informed consent shall be consistent with the procedures employed by the school to obtain parental consent under 34 CFR 300.300. Consistent with 34 CFR 300.505(c), informed parental or adult student consent need not be obtained if the school can demonstrate that it has taken reasonable measures to obtain that consent, and the student's parent or the adult student has failed to respond. To meet the reasonable measures requirement, the school must use procedures consistent with those described in 34 CFR 300.322(d).
3) If the transfer is a sale, then the sale of the ATD shall be evidenced by a "Uniform Transfer Agreement" which includes the following:
    a. the names of the transferor and the transferee (which may be any individual or entity identified in TEC 30.0015(b));
    b. the date of the transfer;
    c. a description of the ATD being transferred;
    d. the terms of the transfer (including the transfer of warranties, to the extent applicable); and
    e. the signatures of authorized representatives of both transferor and transferee.

19 TAC 89.1056

Sec. 8. SPECIAL EDUCATION TEACHER DEFINED (20 U.S.C. §1401(10)(B)(I))

When used with respect to any public elementary school or secondary school special education teacher teaching in a State, such term means that—the teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State's public charter school law.

Sec. 9. COMPLIANCE WITH FEDERAL AND STATE PERSONNEL STANDARDS FOR INDIVIDUALS SERVING CHILDREN WITH DISABILITIES

RYSS shall ensure that personnel standards for all individuals serving children with disabilities are met in accordance with the IDEA and its procedures.

RYSS recognizes that both the Every Student Succeeds Act and the IDEA provide that charter school teachers must meet the requirements set forth in the State's public charter school law. 20

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U.S.C. 6311(g)(2)(J); 20 U.S.C. 1401(10)(B)(i). In Texas, that means that the charter school special education teacher must be certified.

RYSS shall make an ongoing good-faith effort to recruit and hire appropriately and adequately certified and/or licensed personnel to provide a wide range of special education and related services to students with disabilities who are eligible for special education services. Special education staffing needs come from the individualized decisions made by the Admission Review and Dismissal ("ARD") committee.

RYSS shall ensure that all personnel necessary to carry out the requirements of the IDEA 2004 are appropriately and adequately certified and/or licensed, prepared and assigned.

RYSS adopts as policy the provisions under State and Federal law concerning personnel, including:

Charter school teachers must only meet the requirements of the State's public charter school law, which differ from the requirements for Texas teacher certification. In Texas, State law does not require a teacher employed by an open-enrollment charter school to be certified unless the teacher is assigned to teach in special education or bilingual education programs, in which case the appropriate State certification is required. The minimum qualification under State law for a teacher at an open-enrollment charter school, other than a special education or bilingual education teacher, is a bachelor's degree. However, the governing body of RYSS may set the qualifications for teachers at a standard above what State law requires.

The open-enrollment charter school shall not employ a person as a teacher unless that person holds a bachelor's degree.

Education Code 12.129(a).

In an open-enrollment charter school that serves youth referred to or placed in a residential trade center by a local or state agency, a person may be employed as a teacher for a noncore vocational course without holding a baccalaureate degree if the person has demonstrated subject matter expertise related to the subject taught, such as professional work experience, formal training and education, holding a relevant active professional industry license, certification, or registration, or any combination of work experience, training and education, and industry license, certification, or registration, and received as least 20 hours of classroom management training as determined by the governing body of the open-enrollment charter school. *Education Code 12.129(b)*.

All special education and related service personnel shall be certified, endorsed, or licensed in the area or areas of assignment in accordance with 34 CFR 300.156; Education Code Sections 21.002, 21.003, and 29.304; or appropriate state agency credentials. *19 TAC 89.1131(a).*

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Sec. 10. NOTICE TO PARENTS – QUALIFICATIONS

The Superintendent or designee shall provide to the parent or guardian of each student enrolled in RYSS written notice of the qualifications of each teacher employed by RYSS. *Education Code 12.130.*

In the event RYSS receives assistance under Title I, Part A of the Elementary and Secondary Education Act ("ESEA"), RYSS shall, at the beginning of each school year, notify the parents of each student attending a school receiving such funds that parents may request, and RYSS shall provide the parents on request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, the following:

1. Whether the teacher has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.
2. Whether the teacher is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived.
3. Whether the teacher is teaching in the field of discipline of the certification of the teacher.
4. Whether the child is provided services by paraprofessionals and, if so, their qualifications.

20 U.S.C. 6312(e)(1)(A).

Additionally, in the event RYSS receives assistance under Title I, Part A of the ESEA, RYSS shall also provide to each individual parent timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable state certification standards or licensure requirements at the grade level and subject area in which the teacher has been assigned. *20 U.S.C. 6312(e)(1)(B)(ii)*.

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