

# WACO CHARTER SCHOOL

## SPECIAL EDUCATION POLICIES

2020 – 2021



Economic Opportunities Advancement Corporation

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**SPECIAL EDUCATION MODEL POLICIES  
for  
OPEN-ENROLLMENT CHARTER SCHOOLS**

**AS REQUIRED BY 20 U.S.C. §1413(A)(1)**

Charter School: WACO CHARTER SCHOOL  
County District Number: 161801

***Introduction***

To further promote the local initiative, the 1995 revision of the Texas Education Code (TEC) established a new type of public school, known as a charter school. Charter schools are subject to fewer state laws than other public schools with the idea of ensuring fiscal and academic accountability without undue regulation of instructional methods or pedagogical innovation. Like traditional school districts, charter schools are monitored and accredited under the statewide testing and accountability system.

According to the TEC, the purposes of charter schools are to (1) improve student learning; (2) increase the choice of learning opportunities within the public school system; (3) create professional opportunities that will attract new teachers to the public school system; (4) establish a new form of accountability for public schools; and (5) encourage different and innovative learning methods.

***Policy Overview***

Each open-enrollment charter school must assure that it has (or will have upon opening for initial charter applicants) policies and procedures in place that ensure implementation of the Individuals with Disabilities Education Act 2004 (IDEA) and all Federal regulations, Texas laws, State Board of Education (SBOE) rules, and Commissioner's rules concerning students with disabilities receiving Special Education services, and further assures that any future amendments to the regulations, laws, and rules will be incorporated into policies and procedures and implemented by the charter school.

The Special Education Model Policy Series for Charter Schools is a series of publications by the Texas Charter Schools Association (TCSA). These publications are an educational tool for charter school leaders to aid in the operation and management of open-enrollment charter schools in Texas.

Unless specifically noted in the policies, all the Special Education Model Policy Series are legally required for each open-enrollment charter school and must be updated regularly.

Each policy in the Special Education Policy Series provides a summary of State and Federal statutes, regulations, and related case law applicable to all open-enrollment charter schools. Citations to these materials are provided throughout the policies.

Where “school” or “public school” is used in chapters of the TEC that apply to open-enrollment charter schools, the term “open-enrollment charter school” is substituted to conform to the applicable requirements or prohibitions. An open-enrollment charter school is subject to Federal laws governing public schools [TEC §12.103(a)].

### ***Scope of Service & Copyright Notice***

The Special Education Model Policy Series is designed as a resource of information for open-enrollment charter schools, students, and their families. The policies should not be construed as legal advice. It should be used in connection with consulting and obtaining advice from the school’s legal counsel to ensure compliance with applicable legal requirements.

Companion Guide to these Policies: (1) *Texas Open-Enrollment Charter School Handbook* (TEA, Division of Charter School Administration, September 2011), available at <http://www.esc11.net/cms/lib3/TX21000259/Centricity/Domain/67/CharterSchoolHandbook.pdf> and (2) the 2016 Model Policy Series (Texas Charter Schools Association, 2016, available at <http://quality.txcharterschools.org>).

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For questions concerning the Special Education Model Policy Series for Charter Schools, contact:

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## Contents

FREE APPROPRIATE PUBLIC EDUCATION .....	1
Free Appropriate Public Education (FAPE).....	1
APPLICABILITY OF TEXAS EDUCATION CODE RELATING TO SPECIAL EDUCATION .....	1
Applicability of Texas Education Code Relating to Special Education .....	1
Assurance.....	2
OPEN-ENROLLMENT CHARTER EQUAL EDUCATIONAL OPPORTUNITY .....	2
Admission.....	2
SPECIAL EDUCATION CHILD FIND DUTY .....	3
DISTRICT AND CAMPUS .....	4
IMPROVEMENT PLANS .....	4
SPECIAL EDUCATION CLOSING THE GAP .....	4
Elementary and Secondary Education Act Programs .....	4
Early Intervening Service.....	4
Bilingual Education Program.....	5
Students with Disabilities and Limited English Proficiency.....	5
Applicability of Title Relating to Bilingual Education .....	5
Establishment of Bilingual Education and Special Language Program .....	6
Language Proficiency Assessment Committees.....	6
Program Content; Method of Instruction.....	6
Enrollment of Students in Program .....	6
Facilities; Classes.....	6
Enrollment of Students Who Do Not Have Limited English Proficiency .....	6
Cooperation among Schools .....	7
Preschool, Summer School, and Extended Time Programs.....	7
Bilingual Education and Special Language Program Teachers.....	7
Appeals.....	7
PEIMS Reporting Requirements.....	8
DYSLEXIA SERVICES.....	8
CURRICULUM.....	9

Applicability of Title Relating to Prekindergarten Program .....	9
Prekindergarten Program .....	9
Applicability of Title Relating to Reading Instruments and Accelerated Reading Instruction .....	9
Reading Diagnosis and Accelerated Reading Instruction .....	9
<b>DIAGNOSIS AND PROGRAMS OF INSTRUCTION</b> .....	11
Reading Diagnosis and Intensive Programs of Instruction .....	11
Satisfactory Performance on Assessment Instruments Required, Accelerated Instruction .....	11
<b>PROCEDURAL SAFEGUARDS</b> .....	12
Procedural Safeguards .....	12
<b>REFERRAL FOR POSSIBLE</b> .....	12
<b>SPECIAL EDUCATION SERVICES</b> .....	12
Information Concerning Special Education and Education of Children with Learning Difficulties .....	12
Referral for Full and Individual Initial Evaluation .....	12
Multi-tiered Intervention Services .....	14
<b>SPECIAL EDUCATION AGES 0-5</b> .....	15
Prekindergarten Programs .....	15
Notification .....	16
Preschool-Aged Children .....	16
<b>TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY</b> .....	16
<b>FOSTER AND SURROGATE PARENTS</b> .....	17
Foster Parent .....	17
Surrogate Parent .....	18
Notice Requirement .....	19
<b>NATIVE LANGUAGE</b> .....	19
<b>SPECIAL EDUCATION ELIGIBILITY</b> .....	20
Eligibility Criteria .....	20
Determining Eligibility .....	21
Eligibility Definitions .....	21
Intellectual Disability (ID) .....	21
Speech or Language Impairment (SI) .....	22
Emotional Disturbance (ED) .....	22
Orthopedic Impairment (OI) .....	22

Other Health Impairment (OHI) .....	23
Traumatic Brain Injury (TBI) .....	23
Hearing or Auditory Impairment and Deafness (AI) .....	23
Deafness.....	24
Visual Impairment Including Blindness (VI) .....	24
Deaf/Blindness (D/B).....	25
Specific Learning Disability (SLD) .....	25
Autism (AU) .....	26
Multiple Disabilities .....	27
<b>TRANSITION SERVICES.....</b>	<b>27</b>
Transition Services .....	27
Transition Planning .....	28
Individual Education Plan (IEP) .....	28
Transition Guide.....	29
Designated Transition Employee .....	29
Summary of Academic Achievement and Functional Performance .....	30
<b>INDEPENDENT EDUCATIONAL EVALUATIONS .....</b>	<b>30</b>
Definitions .....	30
Right to Evaluation at Public Expense.....	30
Parent/Guardian Initiated Evaluations .....	31
Requests for Evaluations by Hearing Officers.....	31
Open-Enrollment Charter School Criteria .....	31
<b>EVALUATION PROCEDURES.....</b>	<b>32</b>
Full and Individual Evaluation (FIE).....	32
Timeline.....	33
Specific Learning Disability Evaluation.....	34
Functional Behavior Assessment (FBA).....	34
Review of Existing Evaluation Data (REED) .....	34
Change in Eligibility .....	35
Consideration of Services Provided in Regular Education Setting.....	35

Coordination of Evaluations with Prior and Subsequent Schools .....	35
Information and Consent for Certain Psychological Examinations or Tests .....	36
Extension of Timelines .....	36
Evaluation Conducted According to a Special Education Due Process Hearing .....	36
<b>ADMISSION, REVIEW, AND DISMISSAL (ARD) COMMITTEE MEETING .....</b>	<b>36</b>
Admission, Review, and Dismissal (ARD) Committee .....	37
JJAEP Placements .....	38
ARD Committee Member Absences and Excusal.....	38
ARD Committee Meeting Notification .....	38
Annual ARD Committee .....	38
Reaching Closure and Consensus.....	39
Parent’s Native Language and Documentation .....	39
Amendment without a Meeting .....	40
ARD Committee Meeting without the Parent .....	40
<b>SPECIAL EDUCATION .....</b>	<b>40</b>
<b>INDIVIDUAL EDUCATION PROGRAM.....</b>	<b>40</b>
IEP Implementation .....	40
Responsibility of the ARD Committee.....	41
Contents of an IEP.....	41
Least Restrictive Environment .....	41
Related Services .....	41
Supplementary Aids and Services.....	42
Present Levels of Academic Achievement and Functional Performance .....	42
Goals .....	42
State Assessment .....	42
Graduation .....	42
Transition Planning .....	43
Extended School Year (ESY) Services .....	43
Accommodations and Modifications.....	43
Deliberations.....	43

Required Special Factors to Consider .....	43
Behavior Impeding Learning .....	43
A Student with Limited English Proficiency .....	44
Children Who Are Deaf or Hard of Hearing .....	44
Students Who Are Blind or Visually Impaired.....	44
Students with Autism or Other Pervasive Developmental Disorder .....	45
Assistive Technology .....	45
Transfer Student with an IEP .....	46
Access to the IEP .....	46
<b>LEAST RESTRICTIVE ENVIRONMENT .....</b>	<b>47</b>
Continuum of Alternative Placements.....	47
Placement Decisions .....	47
Preschool-Aged Students.....	48
Career and Technical Education Programs .....	48
Regional Day School Program for the Deaf.....	48
Students Residing in a Residential Facility.....	48
Residential Placement at Public Expense .....	49
Texas School for the Blind and Visually Impaired (TSBVI) and Texas School for the Deaf (TSD) .....	50
Residential Facility .....	50
LEA Serving Students in Residential Facility.....	50
Exchange of Records .....	50
Placement and Staffing .....	51
Coordination of IEP and Treatment .....	51
<b>SPECIAL EDUCATION TEACHER AND RELATED SERVICE PROVIDER</b>	
<b>QUALIFICATIONS .....</b>	<b>52</b>
Special Education Teacher Defined (20 U.S.C. §1401(10) (B) (i)).....	52
Compliance with Federal and State Personnel Standards for Individuals Serving Children with Disabilities .....	52
Notice of Teacher Qualifications.....	53
<b>TRANSPORTATION SERVICES .....</b>	<b>53</b>
<b>TESTING – STUDENT ASSESSMENT .....</b>	<b>54</b>



Administering Assessments .....	54
State Assessments .....	55
End of Course Assessment .....	55
Assessments for Third – Eighth Grade .....	56
Reading Assessments.....	56
Alternative Assessment .....	57
Accelerated and Intensive Instruction .....	57
Accelerated Instruction.....	57
Intensive Instruction .....	58
Annual Assessment of English Language Proficiency .....	58
Students Dismissed from Special Education .....	59
<b>GRADUATION REQUIREMENTS .....</b>	<b>59</b>
Applicability of Title Relating to High School Graduation.....	59
ARD Committee and IEP.....	59
Special Education Eligibility upon Graduation .....	60
Graduation Requirements under the Foundation High School Program .....	60
Endorsements under the Foundation High School Program .....	60
Transitioning to the Foundation High School Program .....	61
Substitutions under the Foundation High School Program .....	61
Language other than English.....	61
Physical Education .....	61
Distinguished Achievement, Recommended, and Minimum High School Program .....	62
High School Diploma and Certificate; Academic Achievement Record .....	63
Certificate of Attendance.....	63
Personal Graduation Plan .....	63
Promotion to 6 <sup>th</sup> or 9 <sup>th</sup> Grade .....	63
Diploma.....	64
<b>SPECIAL EDUCATION AUTISM SUPPLEMENT .....</b>	<b>64</b>
Autism Supplement Contents .....	64

EXTRACURRICULAR ACTIVITIES .....	65
Applicability of Title Relating to Extracurricular Activities.....	65
Participation.....	65
No Pass, No Play.....	66
Participation of Charter School in UIL Activities .....	66
STUDENT DISCIPLINE.....	67
Applicability of Texas Education Code Relating to Discipline Management Practices or Behavior	
Management Techniques .....	67
Use of Confinement, Restraint, Seclusion, and Time-Out .....	67
Use of Restraint.....	68
Use of Seclusion .....	69
Use of Time Out .....	69
Documenting Restraint .....	69
Student Code of Conduct.....	70
Authority of School Personnel to Remove Students with Disabilities .....	71
Removal for Fewer than Ten days .....	72
Removal for More than Ten days.....	72
Change in placement for removal.....	72
Manifestation Determination Review (MDR) .....	73
Services during Removal .....	73
Special Circumstances.....	74
Notice Requirements .....	74
Removal of students not determined to have a disability.....	74
Placement during an Appeal .....	75
Limitation on General Authority.....	76
Notice of Disciplinary Action.....	76
Referral to Law Enforcement.....	76
CONTRACTS FOR SERVICES, .....	77
RESIDENTIAL PLACEMENT.....	77
PRIOR WRITTEN NOTICE .....	77
Notice in Understandable Language.....	77

Content of Notice.....	78
Timeline and Manner.....	79
Notification for Homeless Children or Children in Substitute Care .....	79
<b>CONSENT .....</b>	<b>79</b>
Parental Consent for Initial Evaluation .....	79
Special Rules for Initial Evaluation of Wards of the State.....	80
Parental Consent for Services .....	81
Parental Consent for Reevaluations .....	81
Documentation of Reasonable Efforts to Obtain Parental Consent.....	82
Parental Consent to Access Public Benefits.....	82
Parental Consent for Transfer of Assistive Technology Devices.....	83
Other Consent Requirements .....	83
<b>HEALTH AND SAFETY .....</b>	<b>83</b>
Applicability of Title Relating to Health and Safety .....	83
Access to Medical Records.....	83
Parental Access to Medical Records .....	84
Referral to Outside Counselors.....	84
Implementation of Coordinated Health Program.....	84
Reporting of Certain Health and Safety Information.....	84
Care for Students At-Risk for Anaphylaxis .....	85
Self-Administration of Prescription Asthma or Anaphylaxis Medicine.....	85
Psychotropic Drugs and Psychiatric Evaluations or Examinations.....	86
Serving Students with Diabetes .....	87
School-Based Health Centers.....	88
<b>SPECIAL EDUCATION MONITORING AND COMPLIANCE.....</b>	<b>88</b>
<b>SPECIAL EDUCATION VIDEO SURVEILLANCE .....</b>	<b>88</b>
Operation of Video Surveillance .....	88
Requests.....	88
Access to the Video Recordings .....	89
Complaints Under TEC §29.022 .....	89

PUBLIC EDUCATION INFORMATION .....	90
MANAGEMENT SYSTEM (PEIMS) .....	90
Applicability of Title Relating to the PEIMS .....	90
SPECIAL EDUCATION RECORDS.....	90
Electronic Student Records System (TReX) .....	91
Applicability of the Family Educational Rights and Privacy Act .....	91
Family Educational Rights and Privacy Act (FERPA).....	91
Annual Notification of Rights under FERPA .....	93
Directory Information under FERPA .....	94
Personally, Identifiable Information .....	95
Special Education Eligibility Folder .....	96
Redisclosure of Information.....	96
Record of Access .....	97
Records Retention Schedule .....	98
TEACHER REQUESTED REVIEW .....	98
Teacher-Requested Review of Individual Education Program.....	98
COMPLIANCE WITH FEDERAL FUNDING REQUIREMENTS: IDEA.....	99
Compliance .....	99
Reducing the Level of Expenditures.....	99
Excess Expenditures .....	100
Early Intervening Services .....	100
Use of IDEA Part B funds for Title 1 Programs .....	100
IDEA Grant.....	101
Federal Grant Records .....	101
COMPLIANCE WITH FEDERAL FUNDING REQUIREMENTS: TITLE 1 .....	102
COORDINATION OF FUNDS FOR .....	102
PURCHASES OF INSTRUCTIONAL MATERIALS .....	102
NONEDUCATIONAL COMMUNITY-BASED SUPPORT SERVICES .....	103
STATE FUNDING: SPECIAL ALLOTMENTS .....	104
Special Education Allotment .....	104
High-Cost Risk Pool Funds.....	104
Compensatory Education Allotment.....	104
Bilingual Education Allotment.....	105

Career and Technology Education Allotment .....	105
Indirect Cost Allotments .....	106
<b>SHARED SERVICES ARRANGEMENTS</b> .....	106
Residential Placement Contracts .....	106

***Free Appropriate Public Education (FAPE)***

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to ensure that all students with disabilities within its jurisdiction, regardless of the severity of their disabilities, and who need Special Education and Related Services, are identified, located, and evaluated and a practical method is developed and implemented to determine which students with disabilities are currently receiving needed Special Education and Related Services following the Individuals with Disabilities Education Act (IDEA).

It is the policy of the WACO CHARTER SCHOOL, an open-enrollment charter school, to ensure that a free appropriate public education (FAPE) is available to all students with disabilities beginning no later than when the student turns three through the school year in which the student reaches 21 years of age, including students who have been suspended or expelled from school following IDEA (34 CFR §300.18).

Eligible students with disabilities shall enjoy the right to a FAPE, which may include instruction in the regular classroom, instruction through special teaching, or instruction through approved contracts. Instruction shall be supplemented by the provision of Related Services when appropriate [TEC §29.003(a)].

FAPE means Special Education and Related Services that are provided at public expense, meet standards set out by TEA, include an appropriate preschool, elementary school, and secondary school, and the services are provided following the student's Individualized Education Program (IEP) [20 U.S.C. 1401(9); 34 C.F.R. §§300.13, 300.17, and 300.36].

FAPE requires WACO CHARTER SCHOOL, an open-enrollment charter school, to provide each student who qualifies for Special Education and Related Services, an education that confers some educational benefit to the student [34 CFR §300.17, *Bd. of Edu. Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U. S. 176, (1982)].

Each student who receives Special Education and Related Services, will receive an Individual Education Plan (IEP), be educated in the least restrictive environment (LRE), and services will be provided in a coordinated manner to ensure students make progress [*Cypress-Fairbanks ISD v. Michael F.*, 118 F. 3d 245 (5th Cir. 1997)].

***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 WACO CHARTER SCHOOL, an open-enrollment charter school, adopts the requirements of Subchapter A (Special Education Program), Chapter 29, Texas Education Code under TEC §12.104(b)(2)(F).

### ***Assurance***

Under the Individuals with Disabilities in Education Act (IDEA), 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 and Federal policies and procedures governing Special Education [20 USCA §1413(a)(1); 34 CFR §§300.200-.201].

## **CHARTER SCHOOL POLICY**

## **OPEN-ENROLLMENT CHARTER EQUAL EDUCATIONAL OPPORTUNITY**

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to not discriminate based on race, color, national origin, sex, gender identity, or disability in any of its programs or activities. WACO CHARTER SCHOOL, an open-enrollment charter school, ensures that its programs and activities, when viewed in their entirety, are readily accessible to individuals with disabilities. WACO CHARTER SCHOOL, an open-enrollment charter school, selects facilities that do not have the effect of excluding or limiting enrollment or participation of students with disabilities from any school program or activity.

WACO CHARTER SCHOOL, an open-enrollment charter school, complies with Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act (ADA) of 1990, including as amended by the ADA Amendments Act of 2008, which prohibit discrimination based on disability. WACO CHARTER SCHOOL, an open-enrollment charter school, does not deny services to students with disabilities due to lack of funds.

### ***Admission***

WACO CHARTER SCHOOL, an open-enrollment charter school, ensures that it does not deny admission to a student with a disability solely because of that student's need for Special Education or related aids and services, regardless of cost.

WACO CHARTER SCHOOL, an open-enrollment charter school, adopts as policy the provisions under State law ensuring educational opportunities for all students including students with disabilities through its admission practices, enforcement of compulsory attendance, and delivery of services.

For admission to the open-enrollment charter school, the applicant must complete and apply not later than a reasonable deadline established by WACO CHARTER SCHOOL, an open-enrollment charter school [TEC §12.117(a)(1)].

On receipt of more acceptable applications for admission under Texas Education Code (TEC) §12.117 than available positions in the school, WACO CHARTER SCHOOL, an open-enrollment charter school, shall fill the available positions by lottery or, with notice, fill the available positions in the order in which applications received before the application deadline was received [TEC §12.117(a)(2)].

If WACO CHARTER SCHOOL, an open-enrollment charter school, fills the available positions in the order in which applications were received before the deadline, the notice must state the application deadline, and be published in a newspaper of general circulation in the community in which the school is located not later than the seventh day before the application deadline [TEC §12.117(b)].

Further details regarding the application process specifically can be found in the Admissions and Enrollment policy.

## **CHARTER SCHOOL POLICY**

## **SPECIAL EDUCATION CHILD FIND DUTY**

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to ensure that:

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

These requirements apply to:

1. Homeless children
2. Children who are wards of the State
3. Highly mobile children with disabilities (such as migrant children)
4. 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 (34 CFR §300.111)

See additional requirements in WACO CHARTER SCHOOL, an open-enrollment charter school, *Evaluation Procedures*, and *Eligibility* policies.

After each student is enrolled in WACO CHARTER SCHOOL, an open-enrollment charter school, will promptly request all student records from the student's previous school.



It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to annually conduct a comprehensive needs assessment and to annually conduct campus improvement plans if required by State and Federal funding requirements.

### ***Elementary and Secondary Education Act Programs***

The [Elementary and Secondary Education Act \(ESEA\)](#) was first passed by Congress in 1965 as part of President Lyndon B. Johnson's War on Poverty. In 2001, the ESEA was reauthorized as 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.

Congress reauthorized the ESEA in December of 2015 as the Every Student Succeeds Act (ESSA), which is scheduled to take effect beginning July 2016. ESSA will replace NCLB and impacts all charter schools in the state. The ESSA provides more state control and input at the local level (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 to address the learning and behavioral needs of such students [20 USC §[1400\(c\)\(5\)\(F\)](#)].

In implementing coordinated, early intervening services, WACO CHARTER SCHOOL, an open-enrollment charter school, 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
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 (RTI), the process cannot delay the initial evaluation for special education services of a student suspected of having a disability. A parent/guardian may request an evaluation at any time to determine whether the

student is a student with a disability. If a parent/guardian requests an evaluation and the school agrees that the student may be eligible for special education, the school must evaluate the student. If the school denies the parent/guardian request for evaluation, WACO CHARTER SCHOOL, an open-enrollment charter school, must provide notice to the parent/guardian explaining the basis for the refusal. The parent/guardian 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 the 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. Charter schools must provide an appropriate Bilingual Education (BE) or English as a Second Language (ESL) program conducted by teachers certified for such courses. Charter schools receive a bilingual allocation for providing such instruction to be used for program and student evaluations, 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.esc11.net/cms/lib3/TX21000259/Centricity/Domain/67/CharterSchoolHandbook.pdf>.

### ***Students with Disabilities and Limited English Proficiency***

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to ensure that a student with Limited English Proficiency (LEP) 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 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)].

WACO CHARTER SCHOOL, an open-enrollment charter school, adopts the requirements of Subchapter B (Bilingual Education and Special Language Programs), Chapter 29, Texas Education Code under TEC §12.104(b)(2)(G). Where “school or school district” is used in Subchapter B (Bilingual Education and Special Language Programs), the WACO CHARTER SCHOOL, an 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 following the procedures established by the Texas Education Agency unless otherwise excepted under TEC §29.054 (Exception) (TEC §29.053).

### ***Language Proficiency Assessment Committees***

WACO CHARTER SCHOOL, an open-enrollment charter school, shall further establish a Language Proficiency Assessment Committee (LPAC) that complies with TEC §29.063 (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 (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/guardian 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/guardian may appeal the decision under TEC §29.064 [TEC §29.056(a)].

WACO CHARTER SCHOOL, an open-enrollment charter school, through its language proficiency assessment committee (LPAC) shall evaluate and consider enrollment of students who have transferred out of bilingual education or special language program under TEC §29.056(g) as required by TEC §29.0561.

### ***Facilities; Classes***

WACO CHARTER SCHOOL, an open-enrollment charter school, ensures that bilingual education and special language programs are in the regular public charter school rather than in separate facilities (TEC §29.057).

### ***Enrollment of Students Who Do Not Have Limited English Proficiency***

WACO CHARTER SCHOOL, open-enrollment charter school, ensures that enrollment of students who do not have LEP may occur only if the requirements of TEC §29.058 are met (TEC §29.058).

### ***Cooperation among Schools***

WACO CHARTER SCHOOL, an open-enrollment charter school, may cooperate with other schools to provide 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 students of LEP 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)].

The enrollment of a student in the program is optional with the approval of the parent/guardian of the student [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)].

WACO CHARTER SCHOOL, an open-enrollment charter school, may establish on a full- or part-time basis summer school, extended day, or extended week bilingual education or special language programs for students of limited English proficiency and may join with other schools or schools in establishing the programs [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 the support of a program under TEC §29.060(a) [TEC §29.060(f)].

### ***Bilingual Education and Special Language Program Teachers***

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

### ***Appeals***

A parent/guardian of a student enrolled in 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 (TEA). If the parent/guardian disagrees with the placement of the student in the program, the parent/guardian may appeal that decision to the open-enrollment charter school governing body. Appeals shall be

conducted following procedures adopted by the Commissioner under Chapter 157 of the Texas Administrative Code. (TEC §29.064; 19 TAC §89.1240).

### ***PEIMS Reporting Requirements***

The open-enrollment charter school shall meet the Public Education Information Management System (PEIMS) Reporting Requirements concerning its bilingual education or special language programs. See *PEIMS* policy (TEC §29.066).

## **CHARTER SCHOOL POLICY**

## **DYSLEXIA SERVICES**

### ***Applicability of Title***

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 health and safety under Chapter 38 (Health and Safety), Texas Education Code [TEC §12.104(b)(2)(K)].

WACO CHARTER SCHOOL, an open-enrollment charter school, adopts the requirements of Chapter 38 (Health and Safety), Texas Education Code according to TEC §12.104(b)(2)(K). Where “school or school district” is used in Chapter 38 (Health and Safety), WACO CHARTER SCHOOL, an open-enrollment charter school, hereby substitutes “open-enrollment charter school” to conform to these requirements.

### ***Screening and Treatment for Dyslexia and Related Disorders***

Students enrolling in WACO CHARTER SCHOOL, an open-enrollment charter school, in this state shall be screened or tested, as appropriate for dyslexia and related disorders by a program approved by the State Board of Education. At a minimum, WACO CHARTER SCHOOL, an open-enrollment charter school, must screen all students at the end of kindergarten and again at the end of first grade [TEC §38.003(a)].

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to refrain from rescreening or retesting a dyslexic student to reassess the need for accommodations until the school has reevaluated the information from the previous testing [TEC §38.003(b-1)].

Under the program approved by the State Board of Education, the board of trustees of each school open-enrollment charter schools shall provide for the treatment of any student determined to have dyslexia or a related disorder [TEC §38.003(b)].

In TEC §38.003:

1. "Dyslexia" means a disorder of constitutional origin manifested by a difficulty in learning to read, write, or spell, despite conventional instruction, adequate intelligence, and sociocultural opportunity

2. Related disorders" includes disorders like or related to dyslexia, such as developmental auditory imperceptions, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability [TEC §38.003(d)]

WACO CHARTER SCHOOL, an open-enrollment charter school, will report the number of students enrolled in the school who are identified as having dyslexia through the Public Education Information Management System (PEIMS) (TEC §42.006).

## **CHARTER SCHOOL POLICY**

## **CURRICULUM**

### ***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***

WACO CHARTER SCHOOL, an 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)].

WACO CHARTER SCHOOL, an open-enrollment charter school, adopts the requirements of TEC §28.006 (Reading Diagnosis) according to TEC §12.104(b)(2)(G). Where “school or school district” is used in TEC §28.006, WACO CHARTER SCHOOL, open-enrollment charter school, hereby substitutes “open-enrollment charter school” to conform to these requirements.

### ***Reading Diagnosis and Accelerated Reading Instruction***

WACO CHARTER SCHOOL, an open-enrollment charter school, must 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)(f)].

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

WACO CHARTER SCHOOL, an open-enrollment charter school, must notify the parent or guardian of each student in kindergarten or first or second grade that is determined, based on 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 how 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 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 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 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)].

## **CHARTER SCHOOL POLICY**

## **DIAGNOSIS AND PROGRAMS OF INSTRUCTION**

### ***Reading Diagnosis and Intensive Programs of Instruction***

WACO CHARTER SCHOOL, an open-enrollment charter school, adopts the requirements of TEC §28.0213 (Intensive Program of Instruction) according to TEC §12.104(b)(2)(N). Where “school or school district” is used in TEC §28.0213, WACO CHARTER SCHOOL, an 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 the 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 schools 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 how 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)].



***Procedural Safeguards***

Each parent/guardian of a student with a disability, or an adult student, must be provided a copy of the Procedural Safeguards created by the Texas Education Agency (TEA) (34 CFR §300.121).

Procedural Safeguards must be provided when:

- 1) WACO CHARTER SCHOOL, an open-enrollment charter school, is initiating Special Education and related services
- 2) A change of placement occurs under 34 CFR §300.350
- 3) Parent's file a complaint with TEA
- 4) Upon request by the parent

Each year, following the initiation of services, WACO CHARTER SCHOOL, an open-enrollment charter school, must provide a copy of the Procedural Safeguards at least once a year (34 CFR §300.504).

A copy of the Procedural Safeguards is available through the TEA at <http://framework.esc18.net/display/Webforms/LandingPage.aspx>

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

WACO CHARTER SCHOOL, an open-enrollment charter school, is required to provide the WCS Student and Parent Handbook, a copy of the "Providing Assistance to Students Who Have Learning Difficulties or Need Special Education Services," developed by the Texas Education Agency (TEA) or an equivalent statement. The letter statement must include an explanation that the parent/guardian is entitled to request an evaluation at any time.

A copy of TEA's letter can be found at [http://tea.texas.gov/Curriculum and Instructional Programs/Special Education/Programs and Services/Student Handbook Statement English/](http://tea.texas.gov/Curriculum_and_Instructional_Programs/Special_Education/Programs_and_Services/Student_Handbook_Statement_English/). A copy of our current letter can be found at [www.eoacwaco.org/waco-charter-school](http://www.eoacwaco.org/waco-charter-school), at the end of this policy (TEC §26.0081).

***Referral for Full and Individual Initial Evaluation***

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to make referrals of students for an initial Full and Individual Evaluation (FIE) for possible Special

Education services part of the open-enrollment charter school's overall General Education referral or screening system. At any time, a parent/guardian, TEA, another State agency, or the school may initiate a request for an initial evaluation.

Before referral, students struggling in the General Education classroom will be considered for all support services available to all students. However, the use of interventions, including Response to Intervention (RTI) may not be used to delay or deny an evaluation requested by the parent/guardian (34 CFR §§300.304-300.311; OSEP 11-07 RTI Memo).

If after General Education, supports and interventions are tried, and a student continues to struggle in the General Education classroom after the provision of interventions, school personnel must refer the student for an FIE [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 will provide written notice to the student's parent or guardian [20 U.S.C. 1415(b)(3); 34 CFR 300.503(a)].

The school will conduct an FIE 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 will not be an evaluation for eligibility for Special Education and Related Services [20 U.S.C. 1414(a)(1)(E)].

WACO CHARTER SCHOOL, an open-enrollment charter school, must promptly request consent for initial evaluation whenever the student is referred for an evaluation and if, before referral, the student has not made adequate progress after an appropriate period when provided instruction as follows:

- Appropriate instruction in General Education settings, delivered by qualified personnel as demonstrated by the data
- With data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of the student's progress during instruction, which was provided to the student's parents/guardians [34 CFR 300.309(c)]

WACO CHARTER SCHOOL, an open-enrollment charter school, must also accept a referral for Special Education services made for a student who is homeless or in substitute care by a school previously attended by the student. The school will also provide comparable services to the student as the student was receiving at the student's previous school during the referral process or until an Individual Education Plan (IEP) is created (TEC 25.007).

WACO CHARTER SCHOOL, an open-enrollment charter school, will provide notice to a student's educational decision-maker and caseworker regarding a student's referral for Special Education services or Section 504 services (TEC §25.007).

### **Aiding Students Who Have Learning Difficulties or Need Special Education Services (required statement)**

If a child is experiencing learning difficulties, the parent/guardian may contact the person listed below to learn about the Local Education Agency (LEA) overall General Education referral or screening system for support services. This system links students to a variety of support options, including referral for a Special Education evaluation. Students having difficulty in the General Education classroom should be considered for the tutorial, compensatory, and other academic or behavior support services that are available to all students including a process based on Response to Intervention (RTI). The implementation of RTI has the potential to have a positive impact on the ability of districts to meet the needs of all struggling students.

At any time, a parent/guardian is entitled to request an evaluation for Special Education services. Within 15 school days, WACO CHARTER SCHOOL open-enrollment charter school, must respond to the parent/guardian's request. If an evaluation is needed, WACO CHARTER SCHOOL, an open-enrollment charter school, must provide parent/guardian with consent forms. Once informed consent is received, WACO CHARTER SCHOOL, an open-enrollment charter school, must complete the evaluation and the report within 45 school days of the date the school receives the written consent. The district must give a copy of the evaluation report to the parent/guardian.

If the district determines that the evaluation is not needed, the district will provide the parent/guardian with prior written notice that explains why the child will not be evaluated. This written notice will include a statement that informs the parents/guardians of their rights if they disagree with the LEA. The LEA is required to give parents/guardians the *Notice of Procedural Safeguards: Rights of Parents of Students with Disabilities*. Additional information regarding the Individuals with Disabilities Education Act (IDEA) is available from the school district in a companion document *A Guide to the Admission, Review, and Dismissal Process*.

Texas Project First (<https://www.texasprojectfirst.org/>) and Partners Recourse Network (<https://prntexas.org/>) provide information to those who are seeking information and resources specific to students with disabilities and their families.

The designated person to contact regarding options for a child experiencing learning difficulties or a referral for evaluation for Special Education services is:

Contact Person: Amber Crocker, Special Education Coordinator  
Phone Number: 254-754-8169

### ***Multi-tiered Intervention Services***

Parents/guardians of children at WACO CHARTER SCHOOL, an open-enrollment charter school, have the right to access any records related to assistance provided for learning difficulties, including information collected while the student receives intervention services through a multi-tiered program.

Parents/guardians also have the right to request an evaluation for Special Education or Section 504 services at any time if the parent/guardian believes the student needs aids, accommodations, or specialized instruction. An explanation of these rights, under the Texas Education Code (TEC) §26.0081, may be found in the Student Handbook.

WACO CHARTER SCHOOL, an open-enrollment charter school, Instructional Specialist shall provide each parent/guardian of a student receiving intervention services above the general intervention services offered to all students written notice five (5) school days before a child begins to receive the intervention. The notice will include:

- a. A description of the intervention that may be provided
- b. A description of the interventions the student has already received under the base level of intervention
- c. An estimated time frame for the duration of the intervention services
- d. An estimated time frame for when progress reports will be provided
- e. An explanation of the parent/guardian's right to request aids, accommodations or a Special Education or Section 504 evaluation (TEC §26.081)

## **CHARTER SCHOOL POLICY**

## **SPECIAL EDUCATION AGES 0-5**

### ***Prekindergarten Programs***

WACO CHARTER SCHOOL, an open-enrollment charter school, is subject to a prohibition, restriction, or requirement, as applicable, imposed by the Texas 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 WACO CHARTER SCHOOL, an 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)].

Eligible students include students who are:

- 1) Unable to speak and comprehend the English language
- 2) Educationally disadvantaged
- 3) Homeless children, as defined by 42 U.S.C. Section 11434a, regardless of the residence of the child, of either parent/guardian of the child, or the child's guardian or other person having lawful control of the child
- 4) Children of an active duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who is ordered to active duty by proper authority

- 5) Children of a member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who was injured or killed while serving on active duty
- 6) Under or were under the conservatorship of the Department of Family and Protective Services following an adversary hearing held as provided by Section [262.201](#), Family Code [TEC §29.153(b)]

### ***Notification***

The WACO CHARTER SCHOOL, an open-enrollment charter school, shall develop a system to notify residents within the school's geographic boundaries with students 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}.

### ***Preschool-Aged Children***

If WACO CHARTER SCHOOL, an open-enrollment charter school, offers preschool, WACO CHARTER SCHOOL, an open-enrollment charter school, must provide a free appropriate public education (FAPE) in the least restrictive environment to preschool-aged students even if WACO CHARTER SCHOOL, an open-enrollment charter school, does not provide free preschool programs to all preschool-aged children [34 C.F.R. §§300.101(a)-(b) and §300.116].

WACO CHARTER SCHOOL, an open-enrollment charter school, may provide opportunities for the participation of preschool students with disabilities in other preschool programs operated by public agencies or by locating classes for preschool students with disabilities in regular elementary schools. However, WACO CHARTER SCHOOL, an open-enrollment charter school, is not required to initiate preschool programs or to establish extensive contact programs with private schools that serve both students with disabilities and students without disabilities solely to satisfy the requirements regarding placement in the least restrictive environment [OSEP Policy Memo 89-23; 34 C.F.R. §300.102(a)].

## **CHARTER SCHOOL POLICY**

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

When a student with a disability turns 18 years of age or whose disabilities of the minority have been removed for general purposes under Chapter 31, Family Code, the student has the same right to make educated 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. At the age of 18, all other rights accorded to parents under Subchapter A (Special Education), Chapter 29, Texas Education Code (TEC), or 20 U.S.C. §1415 transfer to the student.

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.

One year before the student turns 18, WACO CHARTER SCHOOL, an open-enrollment charter school, will inform the student of his/her rights under the Individuals with Disabilities Education Act (IDEA) that will be transferred to the student upon reaching 18. A written notice will be provided to the student and include information and resources regarding guardianship, alternatives to guardianship, including supported decision-making, and other supports and services that may enable a student to live independently. A statement will be included in the student's IEP indicating that the student has been informed of his/her rights and that written notice was provided.

If a student or the student's parent/guardian requests information regarding guardianship or alternatives to guardianship from the school, the school will provide the student or parent/guardian information and resources on supported decision-making (34 CFR §§300.320 and 300.520; TEC §29.017).

## **CHARTER SCHOOL POLICY**

## **FOSTER AND SURROGATE PARENTS**

### ***Foster Parent***

A foster parent may act as a parent of a child with a disability, as authorized under 20 U.S.C. §1415(b) and its subsequent amendments, if:

- 1) The Department of Family and Protective Services (DFPS) is appointed as the temporary or permanent managing conservator of the child
- 2) The rights and duties of the department have not been limited by the court
- 3) The foster parent agrees to:
  - a. Participate in making Special Education decisions on the child's behalf
  - b. Complete a training program that complies with minimum standards established by the Texas Education Agency (TEA) rule [TEC §29.015(a)]

A foster parent acting as the parent of a child with a disability must complete a training program before the next scheduled Admission, Review, and Dismissal (ARD) committee meeting for the child but not later than 90 days after the date the foster parent begins acting as the parent.

WACO CHARTER SCHOOL, an open-enrollment charter school, may not require a foster parent to retake a training program to continue serving as the parent of a child with a disability or to serve as a surrogate parent of another child if the foster parent has completed a training program to act as a parent of a child with a disability and the training program was provided by:

- a. The Department of Family and Protective Services (DFPS)
- b. A school district
- c. An educational service centers
- d. Any other entity that receives Federal funds to provide Special Education training to parents

A foster parent who is denied the right to act as a parent under TEC §29.015 by an open-enrollment charter school may file a complaint with the TEA under Federal law and regulations [TEC §29.015(c)].

WACO CHARTER SCHOOL, open-enrollment charter school, will seek a new surrogate parent if the school is informed by the DFPS within 5 days of the student's enrollment that the foster parent is unable or unwilling to serve as the parent of the student.

### ***Surrogate Parent***

WACO CHARTER SCHOOL, an open-enrollment charter school, will appoint a surrogate parent for a child in the care of the DFPS if the rights and duties of the department have not been limited by the court, and the foster parent is unwilling or unable to serve as the education decision-maker for a child with a disability.

WACO CHARTER SCHOOL, an open-enrollment charter school, may appoint a surrogate parent for a child with a disability if the school is unable to identify or locate a parent for a child with a disability.

A surrogate parent appointed by WACO CHARTER SCHOOL, an open-enrollment charter school, may not:

- a. Be an employee of the State, the charter school, or any other agency involved in the education or care of the child
- b. Have an interest that conflicts with the interests of the child

A surrogate parent must:

- a. Be willing to serve in the capacity of a parent of a child with a disability
- b. Exercise independent judgment in pursuing the child's interests
- c. Ensure that the child's due process rights under applicable State and Federal laws are not violated
- d. Complete a training program that complies with minimum standards established by TEA
- e. Visit the child and the school where the child is enrolled
- f. Review the child's educational records
- g. Consult with any person involved in the child's education, including the child's
  1. Teachers
  2. Caseworkers
  3. Court-appointed volunteers
  4. Guardian ad litem
  5. Attorney ad litem
  6. Foster parent
  7. Caregiver
- h. Attend meetings of the child's ARD committee

In choosing a surrogate parent, WACO CHARTER SCHOOL, an open-enrollment charter school, may appoint the child's guardian ad litem or a person appointed as a court-certified volunteer advocate.

If WACO CHARTER SCHOOL, an open-enrollment charter school, determines that a court-appointed surrogate parent is failing to perform or is not properly performing the duties required, the school will consult with the DFPS and appoint another person to serve as the surrogate parent (TEC. §29.0151).

### ***Notice Requirement***

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to provide notice to the student's educational decision-maker and caseworker regarding events that may significantly impact the education of a student, including:

- 1) Requests or referrals for an evaluation under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), or Special Education under Section 29.003
- 2) ARD committee meetings
- 3) Manifestation Determination Reviews (MDR) required by Section 37.004(b)
- 4) Any disciplinary actions under Chapter 37 for which parental notice is required
- 5) Citations issued for Class C misdemeanor offenses on school property or at school-sponsored activities
- 6) Reports of restraint and seclusion required by Section 37.0021
- 7) Use of corporal punishment as provided by Section 37.0011 (TEC §25.007)

## **CHARTER SCHOOL POLICY**

## **NATIVE LANGUAGE**

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to determine on a case-by-case basis the most effective mode of communication with parents/guardians who are unable to speak English and to deliver the information required by State and Federal law in that mode.

Procedural Safeguards and Prior Written Notices (PWN) required under 20 U.S.C. 1415(a)–(b) must be written in language understandable to the public. The notice must be provided in the native language of the parent/guardian or another mode of communication used by the parent/guardian unless it is 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/guardian is unable to speak English, and Spanish is the parent/guardian's native language, the School shall provide a written or audiotaped reading of the student's IEP translated into Spanish. If the parent/guardian'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 Individual Education Plan (IEP) translated into the parent/guardian's native language [TEC § 29.005(d); 19 TAC §89.1050(e)].



Native language, when used regarding an individual who has Limited English Proficiency (LEP), means the following:

- 1) The language normally used by that person, or, in the case of a student, the language normally used by the student's parents/guardians
- 2) In all direct contact with a student, including evaluation of the student, the language normally used by the student in the home or learning environment (34 CFR §300.39)

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

- 1) The notice is translated for the parent/guardian orally or by other means in the parent/guardian's native language or another mode of communication
- 2) The parent/guardian understands the content of the notice
- 3) There is written evidence that the requirements in paragraphs 1 and 2 have been met

## **CHARTER SCHOOL POLICY**

## **SPECIAL EDUCATION ELIGIBILITY**

### ***Eligibility Criteria***

A student that is at least three (3) years old but not more than 21 years of age may be eligible for special education services. Through an evaluation, if a student is found to have a disability in one of the following categories, and has an educational need, they may be found eligible for special education:

- 1) Intellectual Disability
- 2) Hearing Impairment
- 3) Visual Impairment
- 4) Speech or Language Impairment
- 5) Emotional Disturbance
- 6) Orthopedic Impairment
- 7) Other Health Impairment
- 8) Traumatic Brain Injury
- 9) Deaf/Blindness
- 10) Specific Learning Disability
- 11) Autism
- 12) Developmental Delay
- 13) Multiple Disabilities (34 CFR § 300.008)

Additionally, a student is eligible to participate in WACO CHARTER SCHOOL, an open-enrollment charter school, special education program if the student is not more than 21 years of age and has a visual or auditory impairment that prevents the student from being adequately or safely educated in public school without the provision of special services (TEC §29.003).

## ***Determining Eligibility***

Following the completion of the Initial Full and Individual Evaluation (FIE), the student's Admission, Review, and Dismissal (ARD) committee must make an eligibility determination. The ARD committee members reviewing evaluations and data to determine eligibility must include a licensed specialist in school psychology (LSSP), an educational diagnostician, or other appropriately certified or licensed practitioner with experience, and a licensed or certified professional for a specific eligibility category defined below under 'Eligibility Definitions' (19 TAC §89.1040).

When interpreting evaluation data to determine if a student is a student with a disability under § 300.8, and the educational needs of the student, WACO CHARTER SCHOOL, an open-enrollment charter school, must:

- 1) Draw upon information from a variety of sources, including aptitude and achievement tests, parent/guardian input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior
- 2) Ensure that information obtained from all sources is documented and carefully considered

If a student is determined to be a student with a disability and needs special education and related services, an IEP must be developed for the student under §§ 300.320 through 300.324 (34 CFR §300.306).

A student is not eligible for special education services through the evaluation if a student is found to only need related services. A student cannot be found eligible for services 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)].

For children aged three through nine, or any subset of that age range, maybe a child with a disability if the student is:

- 1) experiencing developmental delays, as defined by the State, and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development
- 2) needs special education and related services [34 CFR §300.8(b)]

## ***Eligibility Definitions***

### ***Intellectual Disability (ID)***

A student qualifies as a student with an Intellectual Disability if the student has significantly sub-average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a student's educational

performance [34 CFR §300.8(c)(6); 19 TAC §89.1040(c)(5)].

### *Speech or Language Impairment (SI)*

A communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance. The evaluation team at WACO CHARTER SCHOOL, an open-enrollment charter school, must include a certified Speech and Hearing Therapist, a certified Speech and Language Therapist, or a licensed Speech/Language Pathologist [34 CFR §300.8(c)(11); 19 TAC §89.1040(c)(10)].

### *Emotional Disturbance (ED)*

A student may be eligible for services as a student with an emotional disturbance if they exhibit one or more of the following characteristics over a long period and to a marked degree that adversely affects a child's educational performance:

- 1) An inability to learn that cannot be explained by intellectual, sensory, or health factors
- 2) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers
- 3) Inappropriate types of behavior or feelings under normal circumstances
- 4) A general pervasive mood of unhappiness or depression
- 5) A tendency to develop physical symptoms or fears associated with personal or school problems

Emotional disturbance includes schizophrenia but does not include socially maladjusted children unless it is determined that they have an emotional disturbance. A written evaluation must include recommendations for behavior intervention strategies [34 CFR §300.8(c)(4); 19 TAC §89.1040(c)(4)].

### *Orthopedic Impairment (OI)*

A severe Orthopedic Impairment, including impairments caused by congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures). If the impairment adversely impacts a student's educational performance, the student is eligible under this category [34 CFR §300.8(c)(8); 19 TAC §89.1040(10)].

The multidisciplinary team determining eligibility must include a licensed physician [19 TAC §89.1040(10)].

### Other Health Impairment (OHI)

A student with limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli caused by chronic or acute health problems such as:

- 1) Asthma
- 2) Attention Deficit Disorder or Attention Deficit Hyperactivity Disorder
- 3) Diabetes
- 4) Epilepsy
- 5) Heart Condition
- 6) Hemophilia
- 7) Lead poisoning
- 8) Leukemia
- 9) Nephritis
- 10) Rheumatic Fever
- 11) Sickle Cell Anemia
- 12) Tourette Syndrome

If the health condition limits alertness in the educational environment and adversely impacts a student's learning, they are eligible for OHI. In determining eligibility, WACO CHARTER SCHOOL, an open-enrollment charter school, must include a licensed physician on the multidisciplinary team.

### Traumatic Brain Injury (TBI)

An acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's educational performance. Traumatic Brain Injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic Brain Injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

WACO CHARTER SCHOOL, an open-enrollment charter school, must include a licensed physician, and a licensed specialist in school psychology (LSSP), an educational diagnostician, or other appropriately certified or licensed practitioner with experience and training in this area to review the data and determine eligibility [19 TAC §89.1040(11)].

### Hearing or Auditory Impairment and Deafness (AI)

A student with an impairment in hearing, whether permanent or fluctuating, that adversely affects a student's educational performance but is not included under the definition of deafness. The student's evaluation must include an otological examination performed by an otologist or by a licensed medical doctor, with documentation that an otologist is not reasonably available. WACO CHARTER SCHOOL, an open-enrollment charter school, must also conduct an

audiological evaluation by a licensed audiologist. The evaluation must include a description of the implications of the hearing loss for the student's hearing in a variety of circumstances with or without recommended amplification [34 CFR §300.8(c)(5); 19 TAC 89.1040(c)(3)].

### Deafness

Deafness is a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification that adversely affects a student's educational performance [34 CFR §300.8(c)(3)].

### Visual Impairment Including Blindness (VI)

An impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness [34 CFR 300.8(c)(13)].

A student with a visual impairment is one who:

- 1) Has been determined by a licensed ophthalmologist or optometrist to have no vision or to have a serious visual loss after correction, or to have a progressive medical condition that results in no vision or a serious visual loss after the correction
- 2) Has been determined by the following evaluations to need special services, including:
  - a. A functional vision evaluation by a professional certified in the education of students with visual impairments or a certified orientation and mobility instructor that includes the performance of tasks in a variety of environments requiring the use of both near and distance vision and recommendations concerning the need for a clinical low vision evaluation and an orientation and mobility evaluation
  - b. A learning media assessment by a professional certified in the education of students with visual impairment that includes recommendations concerning which specific visual, tactual, and/or auditory learning media are appropriate for the student and whether there is a need for ongoing evaluation in this area [19 TAC 89.1040(12)(A)]

Through evaluation, WACO CHARTER SCHOOL, an open-enrollment charter school, should state the student's visual loss in exact measures of the visual field and corrected visual acuity at a distance and close range in each eye by a licensed ophthalmologist or optometrist. The report should also include prognosis whenever possible. If exact measures cannot be obtained, the eye specialist must so state and provide the best estimates.

A student that qualifies as a student with a visual impairment is considered functionally blind if, based on the preceding evaluations, the student will use tactual media (which includes Braille) as a primary tool for learning to be able to communicate in reading and writing at the same level of proficiency as other students of comparable ability [19 TAC §89.1040(12)(B)].

### Deaf/Blindness (D/B)

A student is eligible under Deaf/Blindness if identified with hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for students with deafness or students with blindness [34 CFR §300.8(c)(2)].

In addition to the IDEA requirements, a student may be eligible if a student is found to:

- 1) Meet the eligibility criteria for auditory impairment specified in subsection 19 TAC §89.1040(c)(3) and visual impairment specified in subsection 19 TAC §89.1040(c)(12)
- 2) Meet the eligibility criteria for a student with a visual impairment and has a suspected hearing loss that cannot be demonstrated conclusively, but a Speech/Language Therapist, a certified Speech and Language Therapist, or a licensed Speech-Language Pathologist indicates there is no speech at an age when speech would normally be expected
- 3) Have documented hearing and visual losses that, if considered individually, may not meet the requirements for auditory impairment or a visual impairment, but the combination of such losses adversely affects the student's educational performance
- 4) Have a documented medical diagnosis of a progressive medical condition that will result in concomitant hearing and visual losses that, without special education intervention, will adversely affect the student's educational performance [19 TAC §89.1040(c)]

### Specific Learning Disability (SLD)

Specific Learning Disability includes a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia [34 CFR §300.8(c)(10)].

In addition to being identified as having a disorder that impacts a basic psychological process, WACO CHARTER SCHOOL, an open-enrollment charter school, must also show that the student does not achieve adequately for the student's age or meet state-approved grade-level standards in oral expression, listening comprehension, written expression, basic reading skill, reading fluency skills, reading comprehension, mathematics calculation, or mathematics problem solving when provided appropriate instruction, as indicated by performance on multiple measures such as in-class tests; grade average over time (e.g. six weeks, semester); norm- or criterion-referenced tests; statewide assessments; or a process based on the child's response to scientific, research-based intervention.

WACO CHARTER SCHOOL, an open-enrollment charter school, evaluations must also show that the student:

- 1) Does not make sufficient progress when provided a process based on the student's response to scientific, research-based intervention [as defined in 20 USC, §7801(37)], as indicated by the student's performance relative to the performance of the student's peers on repeated, curriculum-based assessments of achievement at reasonable intervals, reflecting student progress during classroom instruction
- 2) The student exhibits a pattern of strengths and weaknesses in performance, achievement, or both relative to age, grade-level standards, or intellectual ability, as indicated by significant variance among specific areas of cognitive function, such as working memory and verbal comprehension, or between specific areas of cognitive function and academic achievement [9 TAC §89.1040(c)(9)]

A Specific Learning Disability does not include learning problems that are primarily the result of a visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or environmental, cultural, or economic disadvantage [34 CFR §300.8(c)(10)].

Before identifying a student as one with a Specific Learning Disability, WACO CHARTER SCHOOL, an open-enrollment charter school, must ensure that the suspected disability is not due to a lack of educational opportunity or lack of appropriate instruction. WACO CHARTER SCHOOL, an open-enrollment charter school, must consider data that shows the student has received appropriate instruction in math and reading in the general education setting. WACO CHARTER SCHOOL, an open-enrollment charter school, must also consider documentation of repeated assessments of achievement at reasonable intervals, reflecting the formal evaluation of student progress during instruction. This may include, but is not limited to, RTI progress results, in-class tests on grade-level curriculum, or other regularly administered assessments. Intervals are considered reasonable if consistent with the assessment requirements of a student's specific instructional program [19 TAC §89.1040(c)(9)].

### Autism (AU)

A student with Autism is one that meets the criteria outlined in 34 CFR §300.8(c)(1) of the IDEA. It also includes students with Pervasive Developmental Disorders [19 TAC §89.1040(c)(1)].

Under IDEA, Autism is a developmental disability significantly affecting a student's verbal and nonverbal communication and social interactions that adversely affects a student's educational performance. Engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences are often associated with Autism. Characteristics of Autism are generally evident before age three. A child who manifests the characteristics of Autism after age three could be identified as having Autism if the student meets the above criteria also defined in 34 CFR §300.8(c)(1)(i).

A student does not meet the eligibility category for Autism if a student's educational performance is adversely affected primarily because the student has an Emotional Disturbance, as defined above and in 34 CFR §300.8(c)(4) [34 CFR §300.8(c)(1)].

The written evaluation determining eligibility under Autism must include recommendations for behavior interventions [19 TAC 89.1040(c)(1)].

### *Multiple Disabilities*

A student may qualify as a student with Multiple Disabilities if they are identified to have a combination of impairments (such as mental retardation-blindness or mental retardation-Orthopedic Impairment) and the combination causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities do not include Deaf/Blindness [34 CFR §300.8(c)(7)].

The impairments must be expected to continue indefinitely, and the impairments must severely limit performance in 2 or more of the following:

- 1) Psychomotor skills
- 2) Self-care skills
- 3) Communication
- 4) Social and Emotional Development
- 5) Cognition

A student that qualifies for more than one impairment but does not severely impair performance in one of the above categories, or is not expected to continue indefinitely, does not qualify as a student with Multiple Disabilities [19 TAC §89.1040(c)(6)].

## **CHARTER SCHOOL POLICY**

## **TRANSITION SERVICES**

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to begin transition planning when a student turns 14 years old and to implement transition services as part of the student's IEP beginning at age 16 (TEC §29.0112; 19 TAC §89.1055).

### ***Transition Services***

Transition services are coordinated activities focused on improving the academic and functional achievement of a student with a disability to facilitate the student's movement from school to post-school activities. Transition services include postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The development of a transition plan may include instruction, community services, related services, development of employment skills, or life skills.



Transition services must be based on the student's needs, considering the student's preferences and strengths (34 CFR §300.43).

### ***Transition Planning***

Procedures for transition planning compliance must specify the way a student's Admission, Review, and Dismissal (ARD) committee must consider, and if appropriate, address the following issues in the student's Individualized Education Plan (IEP):

- 1) Appropriate student involvement in the student's transition to life outside the public-school system
- 2) If the student is younger than 18 years of age, appropriate involvement in the student's transition by the student's parents/guardians and other persons invited by the student's parents/guardians or the school district
- 3) If the student is at least 18 years of age, involvement in the student's transition and future by the student's parents/guardians and other persons, if the parent/guardian or other person is invited by the student or the school district, or has the student's consent to participate according to a supported decision-making agreement
- 4) Appropriate postsecondary education options, including preparation for postsecondary level coursework
- 5) An appropriate Functional Vocational Evaluation
- 6) Appropriate employment goals and objectives
- 7) If the student is at least 18 years of age, the availability of age-appropriate instructional environments, including community settings or environments to prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the student's transition goals and objectives
- 8) Appropriate independent living goals and objectives
- 9) Appropriate circumstances for facilitating referral of a student or the student's parents/guardians to a governmental agency for services or benefits, including a referral to a governmental agency to place the student on a waiting list for public benefits available to the student
- 10) The use and availability of appropriate supplementary aids, services, and other opportunities to assist the student in developing decision-making skills, and supports and services to foster the student's independence and self-determination, including supported decision-making agreement [(TEC §29.011)(19 TAC §89.1055(g))].

The ARD committee must review these issues annually and make any necessary changes to address these issues.

### ***Individual Education Plan (IEP)***

WACO CHARTER SCHOOL, an open-enrollment charter school, will ensure that beginning not later than the initial IEP to be in effect when a student turns 14 (or younger, if determined appropriate by the ARD committee) updated annually, the student's IEP shall include:

- 1) Appropriate, measurable postsecondary goals based on age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills
- 2) The transition services, including courses of study, needed to assist the student 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 be under Least Restrictive Environment (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 workplace. Written notice is required before the initiation or change of a work placement.

### ***Transition Guide***

The Texas Education Agency (TEA) has developed the *Texas Transition and Employment Guide*. The guide provides information about statewide services and programs to assist students with disabilities transitioning to life outside public school.

WACO CHARTER SCHOOL, an open-enrollment charter school, must post the *Texas Transition and Employment Guide* on their website if the school maintains a website for transition age. WACO CHARTER SCHOOL, an open-enrollment charter school, must also provide written information, and even assist, a parent/guardian or student in accessing the electronic version of the guide. The transition guide must be provided to the parent/guardian at the first ARD committee meeting at which transition is discussed. If the guide was published after the ARD committee already discussed transition services, the guide must be provided at the next ARD meeting. WACO CHARTER SCHOOL, an open-enrollment charter school, will also provide a printed copy of the guide upon request by the parent/guardian or the student.

A copy of the guide can also be found on the Texas Education Agency website at [http://tea.texas.gov/Curriculum and Instructional Programs/Special Education/Parent and Family Resources/Texas Transition and Employment Guide/](http://tea.texas.gov/Curriculum_and_Instructional_Programs/Special_Education/Parent_and_Family_Resources/Texas_Transition_and_Employment_Guide/) (TEC §29.0112).

### ***Designated Transition Employee***

WACO CHARTER SCHOOL, an open-enrollment charter school, will designate at least one employee to serve as the school's designee on transition and employment services for students enrolled in Special Education programs.

The transition and employment designee will complete training, as required by TEA. The designated employee will provide information and resources about effective transition planning and services, including appropriate services to meet the student's postsecondary needs. The

designee will ensure there is coordination among staff to ensure staff is communicating and collaborating with:

- a. Students enrolled in Special Education and the student's parents/guardians
- b. As appropriate, local, and regional staff of the Health and Human Services Commission, Department of State Health Services, and the Department of Family and Protective Services [TEC §29.011(b)]

### ***Summary of Academic Achievement and Functional Performance***

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to provide the student with a summary of the student's academic achievement and functional performance upon graduation, which shall include recommendations on how to assist the student in meeting the student's postsecondary goals [19 TAC §89.1070; 34 CFR §300.305(e)(3)].

## **CHARTER SCHOOL POLICY**

## **INDEPENDENT EDUCATIONAL EVALUATIONS**

The parent/guardian of a student with a disability has the right to obtain an Independent Educational Evaluation (IEE) of the child if the parent/guardian disagrees with the evaluation of the student that was obtained by the open-enrollment charter school.

If the parent/guardian requests an IEE, WACO CHARTER SCHOOL, an open-enrollment charter school, must provide the parent/guardian with information about where the parent/guardian may obtain an independent educational evaluation and about the open-enrollment charter school's criteria that apply to IEE.

### ***Definitions***

Independent educational evaluation (IEE) means an evaluation conducted by a qualified examiner who is not employed by the school responsible for the education of a student.

Public expense means that the open-enrollment charter school either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent/guardian, consistent with the provisions of Part B of the Individuals with Disabilities Education Act (IDEA), which allow each State to use whatever State, local, Federal, and private sources of support are available in the State to meet the requirements of Part B of IDEA (34 CFR §300.502).

### ***Right to Evaluation at Public Expense***

The parent/guardian has the right to request an IEE of the child at public expense if the parent/guardian disagrees with an evaluation of the student completed by WACO CHARTER SCHOOL, an open-enrollment charter school.

If the parent/student requests an IEE, WACO CHARTER SCHOOL, an open-enrollment charter school, must respond to the parent/guardian by either:

- 1) Without unnecessary delay, file a due process complaint to request a hearing to show that its evaluation of the student is appropriate
- 2) Provide an IEE at public expense, unless the open-enrollment charter school demonstrates in a due process hearing that the evaluation of the student that the parent/guardian obtained did not meet the open-enrollment charter school's criteria

If WACO CHARTER SCHOOL, an open-enrollment charter school, requests a hearing and the final decision is that the open-enrollment charter school's evaluation of the student is appropriate, the parent/guardian still has the right to an IEE, but not at public expense.

If the parent/guardian requests an IEE of the student, the open-enrollment charter school may ask why the parent/guardian objects to the evaluation of the student obtained by the open-enrollment charter school; however, the open-enrollment charter school may not require an explanation and may not unreasonably delay either providing the IEE of the student at public expense or filing a due process complaint to request a due process hearing to defend the open-enrollment charter school's evaluation of the student.

The parent/guardian is entitled to only one IEE of the student/guardian at public expense each time the open-enrollment charter school conducts an evaluation of the student with which the parent/guardian disagrees (34 CFR §300.502).

### ***Parent/Guardian Initiated Evaluations***

If the parent/guardian obtains an Independent Educational Evaluation (IEE) of the student at public expense or the parent/guardian shares with the open-enrollment charter school an evaluation of the student that the parent/guardian obtained at a private expense:

- (1) The open-enrollment charter school must consider the results of the evaluation of the student, if it meets the open-enrollment charter school's criteria for IEE, in any decision made concerning the provision of a free appropriate public education (FAPE) to the student
- (2) The parent/guardian or the open-enrollment charter school may present the evaluation as evidence at a due process hearing regarding the student (34 CFR §300.502)

### ***Requests for Evaluations by Hearing Officers***

If a hearing officer requests an IEE of the student as part of a due process hearing, the cost of the evaluation must be at public expense.

### ***Open-Enrollment Charter School Criteria***

If an IEE is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria

that the open-enrollment charter school uses when it initiates an evaluation (to the extent those criteria are consistent with the parent/guardian's right to an IEE).

An IEE provider must be within McLennan County and the fee shall not exceed \$1000.00.

Except for the criteria described above, an open-enrollment charter school may not impose conditions or timelines related to obtaining an IEE at the public expense [34 CFR 300.502(e)].

## **CHARTER SCHOOL POLICY**

## **EVALUATION PROCEDURES**

It is the policy of the WACO CHARTER SCHOOL, an open-enrollment charter school, to ensure that upon completion of the administration of such tests and other evaluation materials administered according to the evaluation procedures of the IDEA, and preparation of the written report, the ARD committee determines if the student is a student with a disability under State and Federal standards.

### ***Full and Individual Evaluation (FIE)***

WACO CHARTER SCHOOL, an open-enrollment charter school, must conduct an Initial Full and Individual Evaluation (FIE) before providing Special Education and related services to any student. All students must be evaluated under IDEA and the Texas Education Code (TEC).

WACO CHARTER SCHOOL, an open-enrollment charter school, must have in place procedures to ensure that testing and evaluation materials and procedures utilized for evaluation and placement of students with disabilities are selected and administered to not be racially, culturally, or gender discriminatory. Assessment and procedures shall be provided and administered in the student's native language or most proficient mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is not feasible to do so (34 CFR §300.301; TEC §29.310).

All implementing assessment procedures must differentiate between language proficiency and handicapping conditions. Additionally, placement procedures must ensure that placement in bilingual education or English as a second language program is not refused solely because the student has a disability (19 TAC §89.1230).

No single procedure shall be the sole criterion for determining whether a student is a student with a disability or for determining an appropriate education program for a student with a disability. The evaluation must be sufficiently comprehensive to identify all the student's Special Education and related services' needs. Each student must be evaluated in all suspected areas of disability (34 CFR §§300.301 and 300.304; TEC §29.310).

All assessments must be administered following the instructions provided and by a trained and knowledgeable person (34 CFR §§300.301 and 300.304).

## *Timeline*

If a parent/guardian provides a written request for an evaluation, WACO CHARTER SCHOOL, an open-enrollment charter school, will provide the parent/guardian with consent for evaluation or prior written notice and procedural safeguards if the school is denying the request for evaluation, within 15 school days [TEC §29.004(c)].

A written FIE report must be completed not later than the 45<sup>th</sup> school day following the date on which WACO CHARTER SCHOOL, an open-enrollment charter school, receives written consent for the evaluation, signed by the student's parent or legal guardian. If the student is absent for more than 3 days in that period, the timeline must be extended by the number of days the student was absent [TEC §29.004(a)].

This time frame shall not apply if:

- 1) A student enrolls in the current school after the relevant time frame has begun and before the previous school decided as to whether the student has a disability, but only if the current school is making sufficient progress to ensure prompt completion of the evaluation and the parent/guardian and current school agree to a specific time for completion of the evaluation
- 2) The parent/guardian repeatedly fails or refuses to produce the student for the evaluation [34 CFR §300.301(d)]

Following the completion of the FIE, the ARD committee must meet within 30 calendar days from the date of completion to review and determine eligibility (TEC 29.004).

If the student is an English Language Learner (ELL), the language proficiency assessment committee (LPAC) must also attend the meeting to determine services (19 TAC §89.1230).

If WACO CHARTER SCHOOL, an open-enrollment charter school, receives written consent for an FIE from a student's parent or guardian at least 35 but less than 45 school days before the last instructional day of the school year, the evaluation must be completed and the written report of the evaluation must be provided to the parent or legal guardian not later than June 30 of that year. The ARD committee must meet by the 1st school day of the following school year to consider the evaluation.

If WACO CHARTER SCHOOL, an open-enrollment charter school, receives written consent signed by a student's parent or legal guardian less than 35 school days before the last instructional day of the school year or if the school receives the written consent at least 35 but less than 45 school days before the last instructional day of the school year but the student is absent from school during that period on three or more days, the FIE must be completed not later than the 45<sup>th</sup> school day after receiving consent.

School days do not include days following the last instructional day of the spring term and before the first day of the fall term (TEC 29.004).

### ***Specific Learning Disability Evaluation***

The Texas Education Agency (TEA) cannot require WACO CHARTER SCHOOL, an open-enrollment charter school, to use the severe discrepancy between intellectual ability and achievement for determining whether a student has a specific learning disability. TEA must permit the use of a process based on the child's response to scientific, research-based intervention; and may permit the use of other alternative research-based procedures for determining whether a student has a Specific Learning Disability (34 CFR §300.307).

### ***Functional Behavior Assessment (FBA)***

A Functional Behavior Assessment (FBA) may be necessary for a student whose behavior impedes their education. Before completing an FBA, WACO CHARTER SCHOOL, an open-enrollment charter school, must get consent from the parent/guardian (34 CFR §§300.9).

If an ARD committee determines a change of placement is necessary due to the student's behavior, it must conduct an FBA and implement a Behavior Intervention Plan (BIP). If an FBA was already completed, the ARD committee must review and update the BIP [34 CFR §300.350(f)].

### ***Review of Existing Evaluation Data (REED)***

A Review of Existing Evaluation Data (REED) is required as part of an initial evaluation, if appropriate, and as part of any reevaluation. The REED must be conducted by the Admission, Review, and Dismissal (ARD) committee members and other qualified professionals, as appropriate. The ARD committee members may conduct the review without a meeting.

The REED must include a review of the following:

- Evaluations and information provided by the parents/guardians of the student
- Current classroom-based, local, or State assessments, and classroom-based observations
- Observations by teachers and related services providers

Based on that review, and input from the student's parents/guardians, the ARD committee members must identify what additional data, if any, are needed to determine:

- Whether the student is a student with a disability, and the educational needs of the student, or, in case of a reevaluation of a student, whether the student continues to have such a disability and the educational needs of the student
- Whether the student needs Special Education and related services, or in the case of a reevaluation of a student, whether the student continues to need Special Education and related services
- The present levels of academic achievement and related developmental needs of the student
- Whether any additions or modifications to the Special Education and related services are needed to enable the student to meet the measurable annual goals set out in the

Individualized Education Plan (IEP) of the student and to participate, as appropriate, in the general education curriculum

The WACO CHARTER SCHOOL, an open-enrollment charter school, must administer any assessments or other evaluation measures needed to produce the data identified by the REED following applicable procedural requirements regarding notice and consent.

If additional data is not needed, the ARD committee must notify the parent/guardian of the determination decision and provide information about the parent/guardian's right to request additional assessments to determine student needs and eligibility (34 CFR §300.305).

A reevaluation may not occur more than once per year unless agreed to by the school and the parent/guardian. A reevaluation must occur at least every three years unless the school and parent/guardian agree the evaluation is unnecessary (34 CFR §300.303).

### ***Change in Eligibility***

WACO CHARTER SCHOOL, an open-enrollment charter school, must evaluate a student with a disability before determining a student is no longer eligible for Special Education and related services.

An evaluation is not required if a student is no longer eligible due to graduation or exceeding the age eligibility in Texas. However, WACO CHARTER SCHOOL, an open-enrollment charter school, must create a summary of performance and include recommendations on how to assist the student in meeting postsecondary goals [34 CFR §300.305(e)].

### ***Consideration of Services Provided in Regular Education Setting***

To ensure that underachievement in the student suspected of having a Specific Learning Disability is not due to lack of appropriate instruction in reading or math, the group of qualified professionals, as part of a Full and Individual Evaluation, must consider:

- Data that demonstrate that before, or as part of, the referral process, the student was provided appropriate instruction in regular education settings, delivered by qualified personnel
- Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of progress during instruction, which was provided to the student's parents/guardians [34 CFR 300.309(b)]

### ***Coordination of Evaluations with Prior and Subsequent Schools***

The school shall ensure that evaluations of students who transfer from one LEA to another in the same academic year are coordinated with the student's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations [20 U.S.C. 1414(b)(3)(D)].



### ***Information and Consent for Certain Psychological Examinations or Tests***

On request of a student's parent/guardian, before obtaining the parent/guardian's consent under 20 U.S.C. §1414 for the administration of any psychological examination or test to the student that is included as part of the evaluation of the student's need for Special Education, WACO CHARTER SCHOOL, an open-enrollment charter school, must provide to the student's parent/guardian:

- 1) The name or type of the examination or test
- 2) An explanation of how the examination or test will be used to develop an appropriate IEP for the child [TEC §29.0041(a)]

If WACO CHARTER SCHOOL, an open-enrollment charter school, determines that an additional examination or test is required for the evaluation of a student's need for Special Education after obtaining consent from the student's parent/guardian under TEC §29.0041(a), WACO CHARTER SCHOOL, an open-enrollment charter school, shall provide the information described by TEC §§29.0041(a)(1) and (2) to the student's parent/guardian regarding the additional examination or test and shall obtain additional consent for the examination or test [TEC §29.0041(b)].

If a parent/guardian does not give consent under TEC §29.0041(b) within 20 calendar days after the date WACO CHARTER SCHOOL, an open-enrollment charter school, provided to the parent/guardian the information required by that TEC §29.0041(b), the parent/guardian'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 student's parents/guardians and the Admission, Review, and Dismissal (ARD) committee [34 CFR 300.309(c)].

### ***Evaluation Conducted According 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).

## **CHARTER SCHOOL POLICY**

## **ADMISSION, REVIEW, AND DISMISSAL (ARD) COMMITTEE MEETING**

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to hold an Admission, Review, and Dismissal (ARD) committee meeting for each student that qualifies for

Special Education and related services under the Individuals with Disabilities Education Act (IDEA).

Through an ARD committee meeting WACO CHARTER SCHOOL, an open-enrollment charter school, will create an appropriate Individual Education Program (IEP) under the IDEA and the IEP policy of WACO CHARTER SCHOOL, an open-enrollment charter school.

### ***Admission, Review, and Dismissal (ARD) Committee***

Before a student is enrolled in a Special Education program of WACO CHARTER SCHOOL, an open-enrollment charter school, shall establish a committee composed of the persons required under 20 U.S.C. §1401(11) to develop the student's IEP, including:

- 1) Parent/guardian or Adult Student following the transfer of rights
- 2) General education teacher of the student
- 3) Special Education teacher of the student
- 4) A representative of WACO CHARTER SCHOOL, an open-enrollment charter school, that is knowledgeable about general education curriculum, knowledgeable about the availability of resources, and qualified to provide or supervise the provision of, the specially designed instruction to meet the needs of the student with a disability
- 5) A person who can interpret the instructional implications of evaluations. This may be one of the other members.
- 6) At the discretion of the parent/guardian, adult student after the transfer of rights, or WACO CHARTER SCHOOL, an open-enrollment charter school, other individuals who have knowledge or expertise regarding the student, including related services providers
- 7) Student, when appropriate before the transfer of rights [19 TAC §89.1050(c)]

For certain students, additional ARD members are required.

A representative of the school's Career and Technology Education (CTE) program is a required member of the ARD committee when considering the initial and continuing placement of a student in CTE [TEC §29.005(a); 34 CFR §75.1023(d)(1); 20 USC §2301].

The ARD committee must include an LPAC staff member who may be the regular education teacher or the Special Education teacher on the ARD committee if the child is identified as an English Language Learner (ELL).

For students with a suspected or documented visual impairment, the committee must include a teacher who is certified in the education of children with visual impairments.

The committee must also include a teacher who is certified in the education of children with auditory impairments if a student has a suspected or documented auditory impairment.

Students with suspected or documented deaf/blindness, the ARD committee must include a teacher who is certified in the education of children with visual impairments and a teacher who is certified in the education of children with auditory impairments.

At the request of the parent/guardian, or by invitation to the initial ARD committee, the Early Childhood Intervention (ECI) service coordinator or other representatives of the ECI system may be included for students who were previously served under the ECI program.

### ***JJAEP Placements***

When an ARD committee meets to discuss a student expulsion or placement in a Juvenile Justice Alternative Education Program (JJAEP), WACO CHARTER SCHOOL, an open-enrollment charter school, will invite the JJAEP administrator or designee to participate in the meeting to the extent that the meeting relates to the student's placement in the JJAEP and implementation of the student's IEP. If the JJAEP representative is unable to attend, the representative must be allowed to participate via phone or video conference call. WACO CHARTER SCHOOL, an open-enrollment charter school, will provide notice to the JJAEP at least five (5) days before the meeting. Along with the notice, WACO CHARTER SCHOOL, an open-enrollment charter school, will include the student's IEP.

### ***ARD Committee Member Absences and Excusal***

All members of a student's ARD committee must attend a student's ARD meeting, unless the member is not required, or is excused.

Before an ARD meeting, a member of the committee may not be required to attend, in whole or in part, if the parent/guardian and WACO CHARTER SCHOOL, an open-enrollment charter school, agree in writing that the attendance of the member is not needed.

During an ARD meeting, it is the policy of the WACO CHARTER SCHOOL, an open-enrollment charter school, to obtain consent from the parent/guardian or adult student before excusing a member from remaining at an ARD committee meeting. If a member is excused, it may be reflected in the deliberation notes. An ARD committee member should not be excused before addressing the member's portion of the IEP.

### ***ARD Committee Meeting Notification***

WACO CHARTER SCHOOL, an open-enrollment charter school, will provide a parent/guardian or adult student a written notice of each scheduled ARD meeting at least 5 days before the meeting. The notice must designate who will be in attendance, the purpose of the meeting, location, time, and what topics will be discussed (19 TAC §89.1015: 34 CFR §300.322).

For a student who is homeless or in substitute care, WACO CHARTER SCHOOL, an open-enrollment charter school, will notify the child's educational decision-maker and caseworker regarding each ARD meeting, including a manifestation determination review (MDR) meeting (TEC §25.007).

### ***Annual ARD Committee***

For each student that receives Special Education and related services, an ARD committee meeting will be held periodically, but no less than annually to review and update the IEP (34 CFR §§300.320; 300.324).

A parent/guardian or WACO CHARTER SCHOOL, an open-enrollment charter school, may request an ARD committee meeting be held before the annual ARD meeting. If a parent/guardian requests a meeting in writing, WACO CHARTER SCHOOL, an open-enrollment charter school, will schedule a meeting at a mutually agreed upon time and place, or provide notice within 5 school days explaining the school's denial of the request [19 TAC §89.1050(e)].

### ***Reaching Closure and Consensus***

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

If the 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 is required under 20 U.S.C. §1401(11) includes the basis of the disagreement [TEC §29.005(c)].

If the ARD meeting ends in disagreement, it is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to provide the parent/guardian with a recess. The recess shall not exceed 10 school days. During the recess, the committee members shall, and the parent/guardian may gather additional information to help the committee reach consensus. If after 10 school days, consensus cannot be reached, WACO CHARTER SCHOOL, an open-enrollment charter school, shall implement the IEP that was determined to be appropriate for the student.

A parent/guardian may waive the 10 days recess (19 TAC §89.1050).

Through consensus of the ARD committee members, an ARD meeting may be recessed without reaching agreement or disagreement.

### ***Parent's Native Language and Documentation***

If the student's parent/guardian is unable to speak English, WACO CHARTER SCHOOL, an open-enrollment charter school, shall communicate with the parent/guardian in the parent/guardian's native language or other modes of communication the parent/guardian uses under the school's policy on the use of parents/guardians' native language.

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to translate the IEP for a Spanish-speaking parent/guardian. A translation may include a written translation of the IEP or a recording of a reading of the IEP in Spanish. A recording of the ARD meeting is not sufficient unless all parts of the IEP are discussed and the translation is audible on the recording (TEC §29.005).

### ***Amendment without a Meeting***

After the annual ARD meeting, changes to the IEP other than eligibility determinations, changes of placement, and manifestation determination reviews may be made either:

- By the entire ARD committee
- By amending the IEP rather than by redrafting the entire IEP (34 CFR §300.324)

### ***ARD Committee Meeting without the Parent***

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to ensure that parents/guardians can attend the ARD meeting and can participate. WACO CHARTER SCHOOL, an open-enrollment charter school, will work with the parent/guardian to come to an agreeable time or provide an opportunity to participate via conference call (34 CFR §§300.322; 300.328).

If WACO CHARTER SCHOOL, an open-enrollment charter school, is unable to convince parents/guardians to attend the ARD meeting, WACO CHARTER SCHOOL, an open-enrollment charter school, may proceed with an ARD meeting without a parent/guardian in attendance. WACO CHARTER SCHOOL, an open-enrollment charter school, will document written notices sent to the parent/guardian and phone calls with parents/guardians attempting to schedule a mutually agreeable time for the ARD meeting.

## **CHARTER SCHOOL POLICY**

## **SPECIAL EDUCATION INDIVIDUAL EDUCATION PROGRAM**

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to ensure that an Individualized Education Program (IEP) is developed, reviewed, and revised for each student with a disability who receives Special Education and relates services under the Individuals with Disabilities Education Act (IDEA, 34 CFR §§300.22 and 300.020-300.024).

### ***IEP Implementation***

At the beginning of each school year, WACO CHARTER SCHOOL, an open-enrollment charter school, will have in effect an IEP for each student with a disability that qualifies for Special Education and Related Services (34 CFR §300.323).

Once an IEP is developed, the IEP must be implemented as soon as possible. Additionally, WACO CHARTER SCHOOL, an open-enrollment charter school, will provide the parent/guardian with a five (5) day written notice before implementing a new IEP. However, the parent/guardian may waive the five (5) days written notice and allow the IEP to be implemented immediately (34 CFR §300.323; 19 TAC §89.1050).

### ***Responsibility of the ARD Committee***

The Admission, Review, and Dismissal (ARD) committee must determine needed Special Education services, meaning specially designed instruction that is provided at no cost to parents/guardians and meets the unique needs of the student with a disability [34 CFR §300.320(a)(4)].

In determining a free appropriate public education (FAPE) for a student who receives Special Education, the ARD committee must determine needed Related Services as defined by 34 CFR §300.34.

The ARD committee must consider the concerns of the parent/guardian in developing the IEP of a student with a disability [34 CFR §300.324(a)(1)(ii)].

### ***Contents of an IEP***

#### **Least Restrictive Environment**

The ARD committee must determine the least restrictive environment (LRE) for each student under the IDEA.

When creating the schedule of services for each student, it is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to be clear and specific, and ensure that the student receives services in the least restrictive environment.

For further explanation see the *Least Restrictive Environment* policy see 34 CFR §300.114; 19 TAC §89.1050.

#### **Related Services**

Related Services must be provided to a student who qualifies for Special Education if those Related Services are needed to ensure the student receives FAPE.

Related Services means transportation and developmental, corrective, and other supportive services required to assist a student with a disability to benefit from Special Education. Other Related Services include Speech-Language Pathology and Audiology services, Interpreting services, Psychological services, Physical and Occupational Therapy, recreation, including therapeutic recreation, early identification, and assessment of disabilities in children, counseling services, including rehabilitation Counseling, Orientation and Mobility, and medical services for diagnostic or evaluation purposes. Each Related Service is defined under the IDEA, 34 CFR §300.34.

Related Services also include School Health Services and school nurse services, social work services in schools, and parent/guardian counseling and training. However, for students with surgically implanted devices, it does not include a medical device, the optimization of that device's functioning, maintenance of that device, or replacement (34 CFR §300.34).

### Supplementary Aids and Services

The ARD committee must determine needed supplementary aids and services to be provided to the student, or on behalf of the student. This includes aids, services, and other supports that are provided in General Education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable students with disabilities to be educated with nondisabled students to the maximum extent appropriate (34 CFR §300.42).

### Present Levels of Academic Achievement and Functional Performance

The ARD committee must provide a statement of the student's present levels of academic achievement and functional performance. The statement must include a summary of how the student's disability affects the student's involvement and progress in the general curriculum or, in the case of a pre-school student, participation in appropriate activities [34 CFR §300.320(a)(1)].

### Goals

The ARD committee must include in the student's IEP a statement of measurable annual academic and functional goals designed to:

- Meet the student's needs that result from the student's disability to enable the student to be involved in and to make progress in the general education curriculum; and
- Meet each of the student's other educational needs that result from the student's disability [34 CFR §[300.320\(a\)\(2\)\(i\)](#)]

### State Assessment

The ARD committee must select which state assessment a student with a disability will take. As part of that decision, the ARD committee will also select accommodations available to the student. The student's ARD committee will determine whether satisfactory performance on the required assessments is necessary for graduation (34 CFR §300.320; 19 TAC §§89.1070; 89.1055).

For more about state assessments, see the *Testing-Student Assessment* policy.

### Graduation

A high school student's IEP shall include information on the student's graduation plan.

See the *Graduation* policy for more information (19 TAC §89.1050).

### Transition Planning

When a student with a disability turns 14, an ARD committee must begin transition planning. Transition services must be outlined in the student's IEP under IDEA and the Texas Education Code (TEC). See *Transition Services* policy for a detailed explanation of transition services (34 CFR §300.320; TEC §29.011).

### Extended School Year (ESY) Services

The need for ESY services must be determined on an individual basis by the ARD committee. ESY services are individualized instructional programs beyond the regular school year for eligible students with disabilities. WACO CHARTER SCHOOL, an open-enrollment charter school, must ensure that ESY services are available as necessary to provide a student with a disability with a free appropriate public education.

ESY services may not be limited to categories of disability or by the type, amount, or duration of ESY services (34 C.F.R. §300.106; 19 TAC §89.1065).

### Accommodations and Modifications

The ARD committee will determine what accommodations and modifications are required to meet the student's needs in all subject areas. All agreed upon accommodations and modifications will be listed in the IEP and provided to the student's teachers.

### Deliberations

Each IEP will include deliberations of the ARD committee meeting. Included in those notes will be the date of the meeting, as well as the name of those in attendance, their title, each signature, and whether the parent/guardian and administrator agreed or disagreed (TEC §29.005).

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to include a summary of topics discussed, requests and decisions regarding services, and other notes to make clear what occurred during the ARD committee meeting. The deliberations page for each ARD committee meeting is not meant to be a transcript of the meeting.

### ***Required Special Factors to Consider***

#### Behavior Impeding Learning

In the case of the student whose behavior impedes the student's learning or that of others, the ARD committee must consider:

- The use of positive behavioral interventions and supports; and
- Other strategies to address that behavior, including a Behavior Intervention Plan (BIP) [34 CFR §[300.324\(a\)\(2\)\(i\)](#)]



To determine what strategies are best for each student, an ARD committee may consider a Functional Behavior Assessment (FBA). If an ARD committee determines a change of placement is necessary due to the student's behavior, it must conduct an FBA and implement a BIP. If an FBA was already completed, the ARD committee must review and update the BIP [34 CFR §300.350(f)].

If a BIP is required, as determined by the ARD committee, the BIP is part of the IEP and must be provided to all personnel who work with the student [TEC §29.005(g)].

#### *A Student with Limited English Proficiency*

When a student qualifies as a student with Limited English Proficiency (LEP) or qualifies as an English Language Learner (ELL), the ARD committee must consider the language need of the student as such needs relate to the student's IEP. The ARD committee must include a professional member of the Language Proficiency Assessment Committee (LPAC) to serve on the ARD committee of each student with Limited English Proficiency [34 CFR [§300.324\(a\)\(2\)\(ii\)](#)].

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to provide a student who qualifies for language services and Special Education services both services as needed to provide FAPE and meet the unique needs of the student. Eligibility for one service does not disqualify the student from other services (20 U.S.C. §§ 1400-1419; 29 U.S.C. § 794).

#### *Children Who Are Deaf or Hard of Hearing*

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

- The student's opportunities for direct communications with peers and professional personnel in the child's language and communication mode
- The student's language and communication needs
- The student's academic levels
- The student's full range of needs, including opportunities for direct instruction in the student's language and communication mode [34 CFR [§300.324\(a\)\(2\)\(iv\)](#)]

#### *Students Who Are Blind or Visually Impaired*

In the case of the student who is blind or visually impaired, after an evaluation of the student'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 a student with a visual impairment in a classroom setting, or within a reasonable period after placement, the ARD Committee must provide the training specified in TEC Subsection 30.002(c)(4).

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

#### *Students with Autism or Other Pervasive Developmental Disorder*

It is the policy of the WACO CHARTER SCHOOL, an open-enrollment charter school, to comply with any applicable Commissioner rules that may require an open-enrollment charter school to include in the IEP of a student with Autism or another Pervasive Developmental Disorder (PDD) any information or requirement determined necessary, including the Autism supplement, to ensure the student receives FAPE as required under IDEA [20 U.S.C. Section 1400 et seq.; TEC §29.005(e)].

#### *Assistive Technology*

The ARD committee must consider whether the student needs Assistive Technology (AT) devices as a 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 AT in the student's home or other settings is required if the student's ARD committee determines that the student needs access to those devices to receive free appropriate public education [34 CFR §§300.105; [300.324\(a\)\(2\)\(v\)](#); 20 USC §1414(d)(3)(B)(v)].

AT means any device or equipment used to improve or maintain the functional capabilities of a student with a disability. AT does not include a medical device that is surgically implanted (34 CFR §§300.5-300.6).

WACO CHARTER SCHOOL, an open-enrollment charter school, may transfer an AT device under 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 AT, determined following generally accepted accounting principles.
- 2) The informed consent of the parent/guardian of the student with a disability, or the adult student, for whom the AT is being transferred must be obtained before the transfer of an AT under TEC, §30.0015. The procedures employed by WACO CHARTER SCHOOL, an open-enrollment charter school, 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/guardian or the adult student has failed to respond. To meet the reasonable measure's 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 AT shall be evidenced by a "Uniform Transfer Agreement" (UTA) 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 AT being transferred
  - d. The terms of the transfer, including the transfer of warranties, to the extent applicable
  - e. The signatures of authorized representatives of both transferor and transferee (19 TAC 89.1056)

### ***Transfer Student with an IEP***

When a student transfers to WACO CHARTER SCHOOL, an open-enrollment charter school, from another school within Texas, WACO CHARTER SCHOOL, an open-enrollment charter school, must provide FAPE to the student. WACO CHARTER SCHOOL, an open-enrollment charter school, must provide comparable services like those described in the IEP the student transferred with until WACO CHARTER SCHOOL, an open-enrollment charter school, adopts the student's IEP from the previous school, or develops, adopts, and implements a new IEP.

If the student with disability transfers to from a school outside of Texas, WACO CHARTER SCHOOL, an open-enrollment charter school, must provide the student with FAPE, including comparable services, until WACO CHARTER SCHOOL, an open-enrollment charter school, conducts an evaluation and develops, adopts, and implements a new IEP (34 CFR §300.323).

A new IEP must be implemented within 30 school days from the date the student is verified as being a student eligible for Special Education services.

If a student transfers from WACO CHARTER SCHOOL, an open-enrollment charter school, WACO CHARTER SCHOOL, an open-enrollment charter school, will furnish the student's Special Education records to the student's new school not later than 30 calendar days after school student was enrolled (19 TAC §89.1050).

### ***Access to the IEP***

All educators and personnel working with a student with a disability will have access to the student's IEP, including all relevant parts.

It is the responsibility of WACO CHARTER SCHOOL, an open-enrollment charter school, that each person implementing a portion of the IEP is aware of their specific responsibilities. Additionally, personnel must be aware of the accommodations and modifications that must be implemented [34 C.F.R. §300.323(d); 19 TAC §89.1075].

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to ensure that to the maximum extent appropriate, students with disabilities are educated with students who are not disabled, and that special classes, separate schooling, or other removals of students with disabilities from the General Education environment occurs only when the nature or severity of the disability of a student is such that education in general classes with the use of supplementary aids and services cannot be achieved satisfactorily.

### ***Continuum of Alternative Placements***

If needed, WACO CHARTER SCHOOL, an open-enrollment charter school, must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities. A continuum of placements may include but are not limited to General Education, resource, life skills, and homebound [34 C.F.R. §300.115(a)].

### ***Placement Decisions***

In determining the educational placement of a student with a disability, including a preschool student with a disability, WACO CHARTER SCHOOL, an open-enrollment charter school, must hold an Admission, Review, and Dismissal (ARD) committee meeting to determine the appropriate instructional setting for the student and specify the instructional setting in the Individual Education Plan (IEP). WACO CHARTER SCHOOL, an open-enrollment charter school, Admin must ensure that the student is in the least restrictive environment (LRE) to the maximum extent appropriate [34 C.F.R. §300.116; 19 TAC §89.1050(a)(6); 19 TAC §89.1075(e)].

Through an ARD committee meeting, WACO CHARTER SCHOOL, an open-enrollment charter school, shall determine the student's placement at least annually based on the student's IEP [34 C.F.R. §300.116(b)].

The parent/guardian of the student with a disability, or an adult student, must be included in placement decisions (34 CFR §300.327).

The IEP must include an explanation of the extent, if any, to which the student will not participate with nondisabled students in the General Education setting, and extracurricular and nonacademic activities. (34 C.F.R. §300.320)

When determining a student's instructional arrangement/setting, the regular school day is defined as the period determined appropriate by the ARD committee (19 TAC §89.63).

### ***Preschool-Aged Students***

If WACO CHARTER SCHOOL, an open-enrollment charter school, offers preschool, WACO CHARTER SCHOOL, an open-enrollment charter school, must provide a free appropriate public education (FAPE) in the LRE to preschool-aged students even if WACO CHARTER SCHOOL, an open-enrollment charter school, does not provide free preschool programs to all preschool-aged students. (34 C.F.R. §§300.101(a)-(b) and §300.116)

WACO CHARTER SCHOOL, an open-enrollment charter school, may provide opportunities for the participation of preschool students with disabilities in other preschool programs operated by public agencies or by locating classes for preschool students with disabilities in elementary schools. However, WACO CHARTER SCHOOL, an open-enrollment charter school, is not required to initiate preschool programs or to establish extensive contact programs with private schools that serve both students with disabilities and students without disabilities solely to satisfy the requirements regarding placement in the LRE [OSEP Policy Memo 89-23; 34 C.F.R. §300.102(a)].

### ***Career and Technical Education Programs***

If a student is unable to receive a FAPE in a general Career and Technical Education (CTE) program, using supplemental aids and services, the student may be served in separate programs designed to address the student's occupational/training needs, such as a CTE for students with disabilities programs (referred to as CTED programs). (TEC §75.1023(c))

When WACO CHARTER SCHOOL, an open-enrollment charter school, is determining placement in a CTE classroom, the ARD committee will consider the student's graduation plan, the content of the IEP, including the consideration of the transition services, and classroom supports [TEC §75.1023(d)(6)].

Enrollment numbers in a CTE classroom must not create a harmful effect on learning for a student with or without disabilities [TEC §75.1023(d)(6)].

### ***Regional Day School Program for the Deaf***

WACO CHARTER SCHOOL, an open-enrollment charter school, must have access to the Regional Day School Program for the Deaf (RDSPD), and the student must be eligible for consideration for the RDSPD, subject to the ARD committee recommendations, if the student has a hearing impairment, which severely impairs processing linguistic information through hearing, even with recommended amplification, and adversely affects educational performance (19 TAC § 89.1080).

### ***Students Residing in a Residential Facility***

If an ARD committee recommends placement in a residential facility, the ARD committee must determine the appropriate educational placement for a student who resides in a residential facility. WACO CHARTER SCHOOL, an open-enrollment charter school, must consider all

available information regarding the educational needs of the student, and the non-educational needs that may restrict the ability of WACO CHARTER SCHOOL, an open-enrollment charter school, to serve the student on a public school campus or other instructional settings.

As part of the non-educational needs, WACO CHARTER SCHOOL, an open-enrollment charter school, should consider the student's health and safety (e.g. substance abuse) and the student's placement in a restrictive residential facility program (e.g. juvenile incarceration or restrictive court-ordered placements).

The ARD committee's educational placement determination must be individualized based on need, and not made on a categorical basis, such as the disability or residence in the residential facility. Placement cannot be based on what is most convenient to WACO CHARTER SCHOOL, an open-enrollment charter school, or the residential facility.

When the educational services will be provided at the residential facility, the ARD committee must determine whether space available at the residential facility is appropriate for the provision of a free appropriate public education based on the individual student's needs and the residential facility's available space. The ARD committee must find alternative locations for providing educational services if the ARD committee or residential facility determines that the residential facility does not have appropriate space [19 TAC § 89.1115(d)].

### ***Residential Placement at Public Expense***

If WACO CHARTER SCHOOL, an open-enrollment charter school, determines that a residential placement is necessary for the student to receive FAPE, the IEP must include the list of services the facility will provide that WACO CHARTER SCHOOL, an open-enrollment charter school, cannot. WACO CHARTER SCHOOL, an open-enrollment charter school, must also include the criteria and timeline for the student to return to WACO CHARTER SCHOOL, an open-enrollment charter school. The IEP shall document the appropriateness of the facility for the individual student.

During the initial placement ARD, and each annual ARD meeting, the committee shall verify that:

- The facility meets minimum standards for health and safety
- The residential placement is needed and is documented in the IEP
- The educational program provided at the residential facility is appropriate and the placement is the least restrictive environment for the student

WACO CHARTER SCHOOL, an open-enrollment charter school, must make an initial and annual on-site visit to verify that the residential facility can and will provide the services listed in the student's IEP which the facility has agreed to provide to the child (19 TAC §89.61).

When placing the student in a residential facility, WACO CHARTER SCHOOL, an open-enrollment charter school, must comply with the residential placements and the use of funds for contract services including residential placements frameworks.

## ***Texas School for the Blind and Visually Impaired (TSBVI) and Texas School for the Deaf (TSD)***

When placing a student at the TSBVI or the TSD, the ARD committee must include the services that TSBVI or TSD can provide in the student's IEP. The IEP shall also include the criteria and estimated timeline for the students to return to the open-enrollment charter school.

When placing the student at the TSBVI or the TSD, WACO CHARTER SCHOOL, an open-enrollment charter school, may make an onsite visit to verify that the TSBVI or the TSD can and will offer the services listed in the student's IEP and to ensure that the school offers an appropriate educational program for the student [19 TAC §89.1085(c)].

If WACO CHARTER SCHOOL, an open-enrollment charter school, recommends and places a student at the TSBVI, the school is responsible for assuring that FAPE is provided to the student placed in the general school year program of the TSBVI and that all legally required meetings to develop and review the student's Individualized Educational Plan (IEP) are conducted (TEC §30.021).

### **CHARTER SCHOOL POLICY**

### **Residential Facility**

#### ***LEA Serving Students in Residential Facility***

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to serve students attending a residential facility when the educational services at the residential facility are operated by WACO CHARTER SCHOOL an open-enrollment charter school, or if a student's Admission, Review, and Dismissal (ARD) committee place a student in a residential facility.

#### ***Exchange of Records***

When a student is placed in a residential facility, WACO CHARTER SCHOOL, an open-enrollment charter school, will request the student records. The records requested will include:

1. Special Education eligibility and services
2. Behavioral Intervention Plans (BIP)
3. School-related disciplinary actions
4. Other documents related to the student's educational needs
5. Behavioral history information about the child that is not confidential
6. Records of conviction, probation, community supervision, or parole status as provided to the facility by a law enforcement agency, local juvenile probation, or juvenile parole office, if the information is needed to provide educational services to the child (TEC 29.012)

WACO CHARTER SCHOOL, an open-enrollment charter school, is required to share with the residential facility all appropriate records and relevant information relating to the child with a disability within a reasonable amount of time, and as permitted by applicable State and Federal laws and regulations. Information that will be shared includes:

1. Identifying documents of the student's age
2. Medical history and medical records
3. Social history
4. Evaluation reports
5. The treatment plan of care or service
6. Educational placement history
7. Relevant court orders
8. Placement in community
9. Contact information for the school (19 TAC 89.1115)

### ***Placement and Staffing***

Students placed in a Residential Treatment Center (RTC) or serviced by WACO CHARTER SCHOOL, an open-enrollment charter school, will be served in the least restrictive placement. The ARD committee will determine the appropriate educational placement for a student residing in an RTC. The ARD committee will consider:

1. All available information
2. The non-educational needs of the student that may restrict the ability of the school to serve the student on a public-school campus
3. Other non-educational needs, including the student's health and safety, and/or the child's placement in a residential treatment program

All determinations by the ARD committee will be individualized based on the student's needs. Placement determinations will not be based on the student's disability or residence in a residential facility. The student's placement decision may not be based on what is most convenient for the school or the residential facility (19 TAC 89.1115).

### ***Coordination of IEP and Treatment***

IF a student needs educational services at the residential facility, the ARD committee will consider appropriate educational space as follows:

1. Whether space available at the residential facility is appropriate for the provision of free and appropriate public education (FAPE) based on the student's individual needs and the space available at the residential facility; or
2. If the ARD committee or residential facility determines that the residential facility does not have space, the ARD committee will identify an alternative location to provide educational services (19 TAC 89.1115)



***Special Education Teacher Defined (20 U.S.C. §1401(10) (B) (i))***

When used for 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 for any teacher teaching in a public charter school, the term means that the teacher meets the requirements outlined 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 WACO CHARTER SCHOOL, an open-enrollment charter school, to ensure that personnel standards for all individuals serving children with disabilities are met under the Individuals with Disabilities Education Act (IDEA) and its procedures.

WACO CHARTER SCHOOL, an open-enrollment charter school, recognizes that both the No Child Left Behind Act (NCLB) and the IDEA provides that charter school teachers must meet the requirements outlined 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.

It is the policy of WACO CHARTER SCHOOL, an 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 students 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 WACO CHARTER SCHOOL, an 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 the following strategies for accessing adequately certified and/or licensed personnel:

- Hiring faculty with dual certification and/or licensure
- Hiring consultants to provide Special Education services
- Hiring retired teachers to work part-time to deliver Special Education services
- Developing collaborative agreements with other Local Education Agencies (LEAs), including with other charter schools to share Special Education teachers and Related Services

- Forming partnerships with institutions and/or agencies that employ Related Services professionals

WACO CHARTER SCHOOL, an open-enrollment charter school, 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 a charter holder may set the qualifications for teachers at a standard above what State law requires.

<b>Texas Education Code Charter School Certification Requirements</b>
Bachelor’s Degree required for all charter school teachers
Certification only required for: Special Education Bilingual Education

The open-enrollment charter school shall not employ a person as a teacher unless that person holds a bachelor’s degree (TEC §12.129).

All Special Education and Related Service personnel shall be certified, endorsed, or licensed in the area or areas of assignment under 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***

WACO CHARTER SCHOOL, an open-enrollment charter school, must 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 (TEC §12.130).

## **CHARTER SCHOOL POLICY**

## **TRANSPORTATION SERVICES**

WACO CHARTER SCHOOL, an open-enrollment charter school, does not provide any transportation services currently. If transportation services are ever provided the following will apply.

WACO CHARTER SCHOOL, an open-enrollment charter school, will provide transportation to each student attending the school to the same extent WACO CHARTER SCHOOL, an open-enrollment charter school, is required by law to provide transportation to school students (TEC §12.109).

An open-enrollment charter school must provide transportation for a student with a disability if the student's Individual Education Plan (IEP) includes transportation as a Related Service. Transportation includes travel to and from school and between schools; travel in and around school buildings; and specialized equipment such as special or adapted buses, lifts, and ramps [34 CFR §300.34(a) and (c)(16)].

## **CHARTER SCHOOL POLICY**

## **TESTING – STUDENT ASSESSMENT**

### ***Administering Assessments***

It is the policy of the WACO CHARTER SCHOOL, an open-enrollment charter school, to administer assessment instruments adopted under Subchapter B, Chapter 39 Texas Education Code (TEC) under the requirements of that subchapter and rules adopted thereunder.

It is the policy of the WACO CHARTER SCHOOL, an open-enrollment charter school, to comply with all procedures published by the Texas Education Agency (TEA) in its annual test administration manuals regarding test security and confidentiality. Procedures can be found in the *Test Security Supplement* at the following link:

<http://tea.texas.gov/student.assessment/security/>

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, under TEA's published requirements
- Any violation of the state's security or confidentiality procedures is reported to TEA under established procedures

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

### ***Schoolwide Assessments***

The ARD committee for each student who receives Special Education and Related Services must determine what accommodations are needed on school assessments. A statement of accommodations must be included in the Individual Education Plan (IEP) (19 TAC §89.1055).

For students that cannot participate in a regular assessment, even with accommodations, TEA will develop alternate assessments and guidelines for students with disabilities who participate in statewide alternate assessments.

If the ARD committee determines that the student will take an alternative schoolwide assessment, the ARD committee must note in the IEP:

- 1) Why the child cannot participate in the regular assessment
- 2) Why the alternate assessment is appropriate for the student [19 TAC §89.105534 CFR §300.320(b)(6)]

### ***State Assessments***

#### **End of Course Assessment**

All secondary-level campuses must administer End of Course (EOC) Assessments in Algebra I, Biology, English I, English II, and United States History. The Algebra I EOC assessment instrument must be administered with the aid of technology. The English I and English II EOC assessment instruments must each assess essential knowledge and skills in both the reading and writing in the same assessment instrument and must provide a single score (TEC §39.023).

If a student fails to receive a satisfactory score on the EOC assessment, the student may retake the assessment. The student does not have to retake a course to retake an end-of-course assessment. WACO CHARTER SCHOOL, an open-enrollment charter school, must provide each student who fails to perform satisfactorily on an EOC assessment with accelerated instruction in the subject area assessed (TEC §39.025).

If a student fails Algebra I or English II assessments receives a proficient score on the Texas Success Initiative (TSI) diagnostic assessment for the corresponding subject for which the student failed to perform satisfactorily on the end of course assessment, the TSI will satisfy the Algebra I or English II requirement. This subsection expires September 1, 2017 (TEC §39.025).

For students with a disability that qualifies for Special Education and Related Services, the student's Admission, Review, and Dismissal (ARD) committee must determine whether any allowable modification is necessary for administering to the student an end of course assessment. Additionally, the ARD committee of a student in a Special Education program must determine whether the student is required to achieve satisfactory performance on end of course assessment instruments to receive a high school diploma (19 TAC §89.1055; TEC §39.023).

Beginning with the 2011-2012 school year, all Grades 9-12 students with significant cognitive disabilities who are assessed with an alternate assessment as specified in the student's IEP will be assessed using alternate versions of EOC assessments as listed in §101.3011(b)(2) of the Texas Administrative Code (TAC).

For 2011-2012 through 2013-2014 school years, a student who is receiving Special Education services and who is first enrolled in Grade 9 or below in the 2011-2012 school year shall be

administered an alternative version of an EOC assessment instrument upon completion of the corresponding course as required by the student's IEP. Beginning with the 2014-2015 school year, a student who is receiving special education services whose IEP does not specify the administration of an alternate assessment and who is first enrolled in Grade 9 or below in the 2011-2012 school year shall be administered an EOC assessment instrument upon completion of the corresponding course as required by the student's IEP (19 TAC §101.3023).

### Assessments for Third – Eighth Grade

All students must be assessed in:

- 1) Mathematics, in grades three and five without the aid of technology and in grade eight with the aid of technology on any assessment instrument that includes Algebra
- 2) Reading, in grades three, five, and eight
- 3) Writing, including spelling and grammar, in grades four and seven
- 4) Social Studies, in grade eight
- 5) Science, in grades five and eight [TEC §39.023(a)]

Except as required by federal law, a student is not required to be assessed in a subject otherwise assessed if the student:

- 1) Is enrolled in a course in the subject intended for students above the student's grade level and will be administered an assessment adopted or developed under Subsection 39.023(a) of the TEC that aligns with the curriculum for the course in which the student is enrolled
- 2) Is enrolled in a course in the subject for which the student will receive high school academic credit and will be administered an EOC assessment instrument adopted under Subsection 39.023(c) of the TEC for the course (TEC §39.023)

A student with Dyslexia that is not exempt may have accommodations, if appropriate, including oral examinations, additional time, the materials or technology necessary for the student to demonstrate the student's mastery of the competencies the assessments are designed to measure (TEC §39.027).

For students receiving Special Education and Related Services, the ARD committee must provide a statement of any accommodations necessary for the student to measure the academic achievement of the student on a state assessment (19 TAC §89.1055; TEC §39.023).

### Reading Assessments

In kindergarten, first, and second grade, WACO CHARTER SCHOOL, an open-enrollment charter school, will administer a reading assessment. If a student does not perform satisfactorily on the 6<sup>th</sup>-grade reading assessment administered under section 39.023 of the TEC, WACO CHARTER SCHOOL, an open-enrollment charter school, will administer a reading assessment adopted by the commissioner to that student in 7th grade.

WACO CHARTER SCHOOL, an open-enrollment charter school, must notify the parent or guardian of each student in kindergarten or first or second grade who is determined, based on reading instrument results, to be at risk for Dyslexia or other reading difficulties.

The ARD committee of a student who receives Special Education and Related Services and who did not perform satisfactorily on a reading instrument under this section shall determine how the student will participate in an accelerated reading instruction program under this subsection (TEC §28.006).

#### Alternative Assessment

If a student is unable to take a regular assessment and must take an alternative assessment, as determined by the student's ARD committee, the ARD committee must note in the IEP:

- 1) Why the child cannot participate in the regular assessment
- 2) Why the alternate assessment is appropriate for the student (19 TAC §89.1055; 34 CFR §300.320)

WACO CHARTER SCHOOL, an open-enrollment charter school, must inform the student's parent/guardian if a student will be taking the alternate state assessment [34 CFR §300.160(e) and 200.1(f)(1)(iv)].

#### ***Accelerated and Intensive Instruction***

##### Accelerated Instruction

Each time a student fails to perform satisfactorily on an assessment instrument in the third, fourth, fifth, sixth, seventh, or eighth grade, WACO CHARTER SCHOOL, an open-enrollment charter school, in which the student attends must provide accelerated instruction to the student in the applicable subject area. Accelerated instruction may require the participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations.

In addition to providing accelerated instruction, WACO CHARTER SCHOOL, an open-enrollment charter school, must notify the parent or guardian that the student failed to perform satisfactorily on the assessment, the accelerated instruction program to which the student is assigned; and the possibility that the student might be retained at the same grade level for the next school year.

The ARD committee of a student who receives Special Education and Related Services and who did not perform satisfactorily on an assessment must meet before administering the assessment for a second time. The ARD committee must determine the way the student will participate in an accelerated instruction program under this section; and whether the student will be promoted or retained under this section. The ARD committee may promote a student to the next grade if the committee determines the student has made sufficient progress towards the student's IEP goals. If the school promotes the student, the student is not required to retake the assessment.

Not later than September 1 of each year, WACO CHARTER SCHOOL, an open-enrollment charter school, will notify the parents/guardians of any student in Special Education of the options the ARD committee has if a student does not perform satisfactorily on an assessment.

WACO CHARTER SCHOOL, an open-enrollment charter school, must provide students required to attend accelerated programs under this section with transportation to those programs if the programs occur outside of regular school hours (TEC §28.0211).

### **Intensive Instruction**

WACO CHARTER SCHOOL, an open-enrollment charter school, must offer an intensive program of instruction to students who do not perform satisfactorily on an assessment or is not likely to receive a high school diploma before the fifth school year following a student's enrollment in ninth grade.

For students receiving Special Education and Related Services that do not perform satisfactorily on an assessment, the ARD committee must design a program that enables the student to attain a standard of annual growth based on the student's IEP and carry out the purpose of Section 28.0211 of the TEC (TEC §28.0213).

### ***Annual Assessment of English Language Proficiency***

In kindergarten through 12<sup>th</sup> grade, an English Language Learner (ELL), as defined by the TEC, Chapter 29, Subchapter B, as a student of Limited English Proficiency (LEP), must take the state-identified English Language Proficiency (ELP) assessments annually in listening, speaking, reading, and writing.

For students that receive Special Education and Related Services, the ARD committee along with the language proficiency assessment committee (LPAC) must determine what accommodations are needed.

Rarely, the ARD committee and LPAC may determine that is not appropriate for an ELL student who receives Special Education to participate in an English Language Proficiency assessment. If the ARD committee and LPAC make this determination, the decision and justification must be documented in the IEP and the student's permanent record. These decisions will be made on an individual basis (19 TAC §101.1003).

To exit from a Bilingual Education or ESL program, the ARD committee and LPAC must determine an appropriate assessment instrument and performance standard requirement for students for whom those tests would be inappropriate as part of the IEP. The decision to exit a student who receives both Special Education and special language services from the Bilingual Education or ESL program is determined by the ARD committee in conjunction with the LPAC (19 TAC §89.1225).

### ***Students Dismissed from Special Education***

If a student dismissed from a Special Education program previously achieved satisfactory performance on an alternate EOC assessment while enrolled in a Special Education program, that student is not required to retake and achieve satisfactory performance on the general EOC assessment to graduate.

If the student's ARD committee determined that the student was not required to achieve satisfactory performance on the EOC assessment to graduate, the student is not required to retake and achieve satisfactory performance on the EOC assessment.

A student dismissed from a Special Education program must achieve satisfactory performance on any remaining EOC assessments that the student is required to take.

If the student fails to achieve satisfactory performance on no more than two of the remaining EOC assessments, the student is eligible for the IGC review under the TEC, §28.0258, and is subject to the provisions of subsection (e) of this section [19 TAC §101.3022(f)].

## **CHARTER SCHOOL POLICY**

## **GRADUATION REQUIREMENTS**

### ***Applicability of Title Relating to High School Graduation***

WACO CHARTER SCHOOL, an open-enrollment charter school, does not serve grades higher than the 5<sup>th</sup> grade. If WACO CHARTER SCHOOL, an open-enrollment charter school, were to expand the school, graduation policy would be as follows.

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 (TEC), or a rule adopted under Title 2 (Public Education) of the TEC, relating to high school graduation under TEC §28.025. (TEC §12.104(b)(2)(E))

WACO CHARTER SCHOOL, an open-enrollment charter school, adopts the requirements of TEC §28.025 (High School Diploma and Certificate; Academic Achievement Record) under TEC §12.104(b)(2)(E). Where “school or school district” is used in TEC §28.025, WACO CHARTER SCHOOL, an open-enrollment charter school, hereby substitutes “open-enrollment charter school” to conform to these requirements.

### ***ARD Committee and IEP***

For each student who is at least 14 years of age and qualifies for Special Education, the Admission, Review, and Dismissal (ARD) committee must begin transition planning. The ARD committee must also consider the student’s graduation plan and what State assessments are required for graduation. (TEC §29.0111; 19 TAC §89.1070)



### ***Special Education Eligibility upon Graduation***

Graduation with a regular high school diploma terminates a student's eligibility for Special Education and Related Services. Termination of eligibility based on graduation requires WACO CHARTER SCHOOL, an open-enrollment charter school, to complete a summary of performance under 34 CFR §300.305(e)(3). Additionally, termination of services upon graduation is a change of placement, and the prior written notice must be provided to the parent/guardian (34 CFR §300.102).

A student who receives a diploma, but took one or more classes with a modified curriculum, may return to school if the student meets the age eligibility requirements. A modified curriculum is defined as curriculum or content that is reduced in the amount or complexity of the required TEKS (19 TAC §89.1070).

### ***Graduation Requirements under the Foundation High School Program***

A student with a disability that receives Special Education services and who enters ninth grade in or after the 2014-2015 school year, may receive a regular high school diploma if the student:

- 1) Demonstrates mastery of the standards of the required State
- 2) Completes the credit requirements under the Foundation High School Program
- 3) Achieves satisfactory performance on the required State assessment unless the ARD committee determines that satisfactory performance on the required State assessment is not necessary for graduation

A student who receives Special Education services entering 9<sup>th</sup> grade in 2014-2015 or after may also earn if the student meets the above requirements and completes the Individual Education Plan (IEP) and meets one of the following:

- 1) Consistent with the IEP, the student obtains full-time employment and masters sufficient self-help skills to enable the student to maintain employment without direct or ongoing educational support
- 2) Consistent with the IEP, demonstrated mastery of specific employability skills and self-help skills that do not require ongoing educational support
- 3) Has access to services that are not within the legal responsibility of WACO CHARTER SCHOOL, an open-enrollment charter school, or educational options for which the student has been prepared for by the academic program
- 4) No longer meets eligibility requirements (19 TAC §89.1070; TEC §28.025)

### ***Endorsements under the Foundation High School Program***

A student receiving Special Education services may receive an endorsement if the student:

- 1) Completes the requirements for graduation under the Foundation High School Program and completes the additional credits requirements in mathematics, science, and elective courses required for an endorsement with or without modified curriculum

- 2) Completes the courses required for the endorsement without modified curriculum
- 3) Performs satisfactorily on the State assessment

A student who is in 11<sup>th</sup> or 12<sup>th</sup> grade in 2014-2015, 2015-2016, or 2016-2017 school years who took each of the required assessments, but failed to achieve satisfactorily on no more than two assessments is eligible for an endorsement if the student meets the other endorsement requirements.

For students receiving Special Education services, if the student wants to use a course to satisfy both the Foundation High School Program requirements and the endorsement requirement, the course must be completed without a modified curriculum (19 TAC §89.1070; TEC §28.025).

### ***Transitioning to the Foundation High School Program***

For students who entered 9<sup>th</sup> grade before the 2014-2015 school year, a student may receive a diploma under the Foundation High School Program if the student's ARD committee determines the student should take courses under the Foundation program and the student completes the requirements.

A student transitioning may also receive an endorsement if they meet the requirements. A student who is in 11<sup>th</sup> or 12<sup>th</sup> grade in 2014-2015, 2015-2016, or 2016-2017 school years and transitioning to the Foundation High School Program, who took each of the required assessments, but failed to achieve satisfactorily on no more than two assessments may graduate if the student met the other graduation requirements (19 TAC §89.1070; TEC §28.025).

### ***Substitutions under the Foundation High School Program***

#### **Language other than English**

If the ARD committee determines that a student with a disability is unable to complete two credits in the same language other than English, the ARD committee may determine to:

- 1) Substitute a combination of two credits from ELA, math, science, or social studies
- 2) Substitute two credits of CTE, technology applications, or other academic electives  
[(TEC §74.12(b)(5)(D)(i); §28.025(b-14)(1)]

#### **Physical Education**

Under State Board of Education (SBOE) rules, a student who is unable to participate in physical activity due to disability or illness is allowed to substitute one credit in English Language Arts, mathematics, science, or social studies or one academic elective credit for the required physical education credit. A credit allowed to be substituted may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The determination regarding a student's ability to participate in the physical activity must be made by:

- The student's ARD committee, if the student receives Special Education services under the Individuals with Disabilities Education Act (IDEA) and TEC Chapter 29
- The student's 504 committee, if the student does not receive Special Education services under the IDEA or TEC Chapter 29, Subchapter A but is covered by Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794
- If each of the described committees is inapplicable, a committee established by the school of persons with appropriate knowledge regarding the student [(TEC §28.025(b-11))]

Credits allowed as a substitution for the language and PE requirement may not be used to satisfy other graduation credit requirements [TEC §28.025(b-11) and (b-14)].

### ***Distinguished Achievement, Recommended, and Minimum High School Program***

A student receiving Special Education services who entered ninth grade before the 2014-2015 school year, may graduate with a regular diploma if the student:

- 1) Demonstrates mastery of the State standards
- 2) Completes credit requirements for graduation under the recommended or distinguished program
- 3) Achieves satisfactory performance on the required State assessment

A student who is in 11<sup>th</sup> or 12<sup>th</sup> grade in 2014-2015, 2015-2016, or 2016-2017 school years and who took each of the required assessments, but failed to achieve satisfactorily on no more than two assessments may graduate under the recommended or distinguished program if the student met the other graduation requirements.

A student receiving Special Education services who entered ninth grade before the 2014-2015 school year, may also graduate with a regular diploma if the student:

- 1) Demonstrates mastery of the State standards
- 2) Completes credit requirements for graduation under the minimum program
- 3) Participates in or satisfactorily performs on the required State assessment as determined by the ARD committee

Finally, a student receiving Special Education services who entered ninth grade before the 2014-2015 school year, may also graduate with a regular diploma if the student:

- 1) Demonstrates mastery of the State standards through courses, one or more of which contained modified content and is aligned with the requirements under the minimum high school program
- 2) Completes credit requirements for graduation under the minimum program
- 3) Participates in or satisfactorily performs on the required State assessment as determined by the ARD committee
- 4) Completes the IEP and meets one of the following conditions:

- Consistent with the IEP, the student obtains full-time employment and masters sufficient self-help skills to enable the student to maintain employment without direct or ongoing educational support
- Consistent with the IEP, demonstrated mastery of specific employability skills and self-help skills that do not require ongoing educational support
- Has access to services that are not within the legal responsibility of WACO CHARTER SCHOOL, an open-enrollment charter school, or educational options for which the student has been prepared for by the academic program
- No longer meets eligibility requirements (19 TAC §89.1070)

### ***High School Diploma and Certificate; Academic Achievement Record***

WACO CHARTER SCHOOL, an open-enrollment charter school, shall comply with the graduation standards of TEC §28.025.

The open-enrollment charter school does issue a certificate of coursework completion to a student who completes the curriculum requirements identified by SBOE under TEC §28.025(a) but who fails to comply with TEC §39.025 (Secondary-Level Performance Required) relating to exit-level assessment requirements. WACO CHARTER SCHOOL, an open-enrollment charter school, allows a student who receives a certificate to participate in a graduation ceremony with students receiving high school diplomas [TEC §28.025(d)].

### ***Certificate of Attendance***

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to issue a Certificate of Attendance to a student who receives Special Education services under the IDEA, and who has completed four years of high school but has not completed the student's IEP. The open-enrollment charter school shall allow a student who receives a certificate to participate in a graduation ceremony with students receiving high school diplomas. A student may participate in only one graduation ceremony. Receiving a Certificate of Attendance does not preclude a student from receiving a diploma [TEC §28.025(f)].

### ***Personal Graduation Plan***

An open-enrollment charter school shall consider including in the school's charter a requirement that the school develops and administer personal graduation plans under TEC §28.0212 [TEC §12.111(b)].

### ***Promotion to 6<sup>th</sup> or 9<sup>th</sup> Grade***

A student may not be promoted to sixth grade if the student does not perform satisfactorily on the fifth-grade mathematics and reading assessments.

A student may not be promoted to ninth grade if the student did not perform satisfactorily on the 8th-grade mathematics and reading assessments.

Each time a student fails to perform satisfactorily on an assessment administered under Section 39.023(a) in the 3rd, 4th, 5th, 6th, 7th, or 8th grade, WACO CHARTER SCHOOL, an open-enrollment charter school, must provide the student with accelerated instruction in the applicable subject area. Accelerated instruction may require the participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations.

The ARD committee of a student who participates in the WACO CHARTER SCHOOL, an open-enrollment charter school, Special Education program and does not perform satisfactorily on an assessment must determine:

- 1) The way the student will participate in an accelerated instruction program under this section
- 2) Whether the student will be promoted or retained under this section (TEC §28.0211)

### ***Diploma***

As used in this section, a diploma refers to a standard high school diploma awarded to a preponderance of students that is fully aligned with the State standard diploma. This does not include a diploma aligned to alternate academic achievement standards or an equivalent of a diploma, such as a general equivalency diploma (34 CFR 300.102).

## **CHARTER SCHOOL POLICY**

## **SPECIAL EDUCATION AUTISM SUPPLEMENT**

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to ensure that each student who qualifies for services as a student with Autism, that the student's Individualized Education Program (IEP) includes an appropriate Autism Supplement [19 TAC §89.1055(e)].

### ***Autism Supplement Contents***

Each ARD committee will consider each of the following strategies, and when needed, the strategies will be addressed in the student's IEP. The strategies will be peer-reviewed or researched-based practices to the extent practicable:

- 1) Extended educational programming, such as an extended day or ESY that consider the duration of programming based on an assessment of behavior, social skills, communication, academics, and self-help skills
- 2) Daily schedules reflecting the minimal unstructured time and active learning activities, such as lunch and recess periods provide flexibility in routines; adapt to individual skills, and assist with schedule changes
- 3) In-home and community-based services or other alternatives to help the student with the acquisition of social or behavioral skills
- 4) Positive behavior support strategies based on student needs

- 5) Future planning, beginning at any age, for integrated living, work, community, and educational environments that consider skills necessary to function in current and post-secondary environments
- 6) Parent/guardian or family training and support provided by personnel familiar with Autism Spectrum disorders
- 7) The appropriate staff-to-student ratio for identified activities and as needed to achieve social and behavioral progress based on the students developmental and learning level that encourages progress towards independence
- 8) Communication interventions to enhance effective communication across all settings
- 9) Social skills support and strategies based on social skill assessment and provided across all settings
- 10) Professional Support, such as training to staff, to ensure correct implementation of techniques
- 11) Teaching strategies based on peer-reviewed, research-based practices for students with Autism Spectrum Disorders (ASD)

If an ARD committee considers each of these strategies and determines the services are not needed in one of the areas, the IEP will include a statement for the basis of the decision. If the student needs a behavior intervention plan (BIP), the BIP must be included in the IEP and provided to each teacher or aide that works with the student.

## **CHARTER SCHOOL POLICY**

## **EXTRACURRICULAR ACTIVITIES**

### ***Applicability of Title Relating to Extracurricular Activities***

WACO CHARTER SCHOOL, 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 extracurricular activities under TEC §33.081 (Extracurricular Activities) [TEC §12.104(b)(2)(I)].

The WACO CHARTER SCHOOL, an open-enrollment charter school, adopts the requirements of TEC §33.081 (Extracurricular Activities) under TEC §12.104(b)(2)(I). Where “school or school district” is used in TEC §33.081, the WACO CHARTER SCHOOL, an open-Enrollment charter school, hereby substitutes “open-enrollment charter school” to conform to these requirements.

### ***Participation***

All students must have an equal opportunity to participate in extra-curricular activities, regardless of their disability. WACO CHARTER SCHOOL, an open-enrollment charter school, may not operate activities based on generalizations, assumptions, prejudices, or stereotypes about disability generally, or specific disabilities.

To ensure students with disabilities have an equal opportunity to participate in extra-curricular activities, WACO CHARTER SCHOOL, an open-enrollment charter school, will make reasonable modifications or provide aids and services that are necessary, unless such a modification would fundamentally alter the program.

For competitive activities or programs, the school may require a certain level of skill to participate. (Dear Colleague Letter: Students with Disabilities in Extracurricular Athletics, January 25, 2013)

### ***No Pass, No Play***

WACO CHARTER SCHOOL, an open-enrollment charter school, shall comply with the “no pass, no play” rules as outlined in TEC §33.081.

A student who participates in a University Interscholastic League (UIL) competition will be suspended from participation in any extracurricular activity sponsored or sanctioned by the University Interscholastic League after a grade evaluation period in which the student received a grade lower than the equivalent of 70 on a scale of 100 in any academic class other than a course described by TEC §33.081(d-1) [TEC §33.081(c)].

A suspension continues for at least three school weeks and is not removed during the school year until the conditions of TEC §33.081(d) are met. A suspension does not last beyond the end of a school year. For purposes of TEC §33.081(c), "grade evaluation period" means:

- 1) the six-week grade reporting period
- 2) the first six weeks of a semester and each grade reporting period thereafter, in the case of a school or charter school with a grade reporting period longer than six weeks [TEC §33.081(c)]

For students with a disability under the Individuals with Disabilities Education Act (IDEA), if the disability significantly interferes with the student's ability to meet regular academic standards, the suspension must be based on the student's failure to meet the requirements of the student's Individualized Education Program (IEP). The determination of whether a disability significantly interferes with a student's ability to meet regular academic standards must be made by the student's Admission, Review, and Dismissal (ARD) committee [TEC §33.081(e)].

### ***Participation of Charter School in UIL Activities***

If the open-enrollment charter school chooses to participate in UIL activities, the open-enrollment charter school shall comply with UIL rules (Subchapter D (Membership in League), Section 11 (Admission to Membership), UIL Constitution and Contest Rules).

***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)].

WACO CHARTER SCHOOL, an open-enrollment charter school, adopts the requirements of TEC §37.0021 (Use of Confinement, Restraint Seclusion, and Time-Out) under TEC §12.104(b)(2)(J). Where “school” or “school district” is used in TEC §37.0021 (Use of Confinement, Restraint Seclusion, and Time-Out), WACO CHARTER SCHOOL, an 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 the State and of WACO CHARTER SCHOOL, an open-enrollment charter school, 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 (TEC). A student with a disability who receives Special Education services under Subchapter A (Special Education Program), Chapter 29, TEC, 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)].

It is the policy of WACO CHARTER SCHOOL, an 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, TEC.

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to ensure that children with disabilities (including a child not yet eligible if the school had knowledge before the disciplinary conduct that the child was a child with a disability under the Individuals with Disabilities Education Act (IDEA) and meets the standards for receiving protection under IDEA are disciplined for a violation of the student code of conduct under IDEA, including any disciplinary removal from the current educational placement to an appropriate interim alternative educational setting, another setting, suspension, or expulsion.



Under TEC §37.0021:

- a. "Emergency" means a situation in which a student's behavior poses a threat of:
  - i. Imminent, serious physical harm to the student or others
  - ii. Imminent, serious property destruction
- b. "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
- c. "Seclusion" means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:
  - i. is designed solely to seclude a person
  - ii. contains less than 50 square feet of space
- d. "Time-out" means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:
  1. that is not locked
  2. 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)]

#### Use of Restraint

An employee, volunteer, or independent contractor of WACO CHARTER SCHOOL, an open-enrollment charter school, may use restraint only in an emergency as defined above and in the following situations:

- 1) Restraint must be limited to the use of such reasonable force as is necessary to address the emergency
- 2) Restraint shall be discontinued at the point at which the emergency no longer exists
- 3) Restraint must be implemented in such a way to protect the health and safety of the student and others
- 4) Restraint must not deprive the student of basic human necessity (19 TAC §89.1053)

Restraint does not include physical force or mechanical device which does not significantly restrict the free movement of all or a portion of the student's body. A restraint that involves significant restriction (as described above) does not include:

- 1) Physical contact or appropriately prescribed adaptive equipment to promote normative body positioning and/or physical functioning
- 2) Limited physical contact with a student to promote safety (e.g. holding the hand of a student), prevent a potentially harmful action (e.g. running in the street), teach a skill, redirect attention, provide guidance to a location, or provide comfort
- 3) Limited physical contact or appropriately prescribed adaptive equipment to prevent a student from engaging in ongoing, repetitive self-injurious behaviors, with the expectation that instruction will be reflected in the Individual Education Plan (IEP) as required by 34 CFR §300.324(a)(2)(i) and (c) to promote student learning and reduce and/or prevent the need for ongoing intervention

- 4) Seat belts and other safety equipment used to secure students during transportation (19 TAC §89.1053)

### *Use of Seclusion*

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 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
- 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 while awaiting the arrival of law enforcement personnel if:

- 1) The student possesses a weapon
- 2) The confinement is necessary to prevent the student from causing bodily harm to the student or another person [TEC §37.0021(f)]

### *Use of Time Out*

An employee, volunteer, or independent contractor of WACO CHARTER SCHOOL, an open-enrollment charter school, may use time-out under subsection (b)(3) of this section with the following limitations.

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

Data collection for use of time-out must be addressed in the IEP or BIP (19 TAC §89.1053).

### ***Documenting Restraint***

If WACO CHARTER SCHOOL, an open-enrollment charter school, uses restraint, WACO CHARTER SCHOOL, an open-enrollment charter school, must document and report the use of restraint to the Texas Education Agency (TEA), including:

- 1) On the day restraint is used, the campus administrator or designee must be notified verbally or in writing about the use of restraint
- 2) WACO CHARTER SCHOOL, an open-enrollment charter school, must make a good faith effort to verbally notify the parent/guardian on the same day the restraint was used
- 3) Written notification of the restraint must be mailed or otherwise provided to the parent/guardian within one school day of the use of restraint
- 4) For homeless students, the school must notify the student's educational decision-maker and caseworker regarding the use of restraint (TEC 25.007)
- 5) A copy of the written notification must be placed in the student's Special Education folder promptly and made available to the Admission, Review, and Dismissal (ARD) committee so the ARD committee can consider the impact of the student's behavior on the student's learning and/or creation or revision of a BIP
- 6) The written notice must include:
  - a. Name of student
  - b. Name of the staff member(s) administering the restraint
  - c. Date of the restraint
  - d. Time the restraint began and ended
  - e. Location of the restraint
  - f. Nature of the restraint
  - g. Description of the activity in which the student was engaged in immediately preceding the use of restraint
  - h. The behavior that prompted the restraint
  - i. The efforts made to deescalate the situation and alternatives to restraint that was attempted
  - j. Information documenting parent/guardian contact and notification [19 TAC §89.1053(k)]

### ***Student Code of Conduct***

The governing body of WACO CHARTER SCHOOL, an open-enrollment charter school, shall adopt a code of conduct for its school or 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 concerning expulsion. Notwithstanding any other provision of law, a final decision of the governing body of an open-enrollment charter school concerning actions taken under the code of conduct may not be appealed [TEC §12.131(a)].

A copy of the WACO CHARTER SCHOOL, an open-enrollment charter school, student code of conduct can be found at [www.eoacwaco.org/waco-charter-school](http://www.eoacwaco.org/waco-charter-school).

WACO CHARTER SCHOOL, 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)].

Under 20 U.S.C. §7151, a Local Educational Agency (LEA), 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 at least one year, except that:

- 1) The superintendent or other chief administrative officer of the LEA, 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 LEA shall provide educational services to an expelled student in a disciplinary alternative education program as provided by Section 37.008 if the student is younger than 10 years of age on the date of expulsion
- 3) The LEA 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 the 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, do not apply to an open-enrollment charter school unless the governing body of the school so determines [TEC §12.131(c)].

### ***Authority of School Personnel to Remove Students with Disabilities***

Removal of a student with a disability will be determined on a case-by-case basis. School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of the IDEA, is appropriate for a student with a disability who violates the student code of conduct (34 CFR §300.530).

The placement of a student with a disability who receives Special Education services may only be determined by an ARD committee. Any disciplinary action that would result in a change of placement can only be enforced after the student's ARD committee conducts a Manifestation Determination Review (MDR). Any removals must be under IDEA and its regulations requiring:

- 1) Functional Behavior Assessment (FBA)
- 2) Positive behavior interventions, strategies, and supports
- 3) Behavior Intervention Plan (BIP)
- 4) Manifestation Determination Review (MDR)

A student with a disability who receives Special Education services may not be removed or placed in an alternative setting solely for education purposes (TEC § 37.004).

### Removal for Fewer than Ten days

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

School personnel may remove the student with a disability who violates the code of conduct from his or her current placement for additional removals of not more than ten consecutive school days in that same school year for separate incidents of misconduct as long as those removals do not constitute a change of placement (34 CFR §300.530).

### Removal for More than Ten days

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

- In the MDR, the behavior that gave rise to the violation of the code of conduct is determined not to be a manifestation of the student's disability
- Services during periods of removal are provided to the student
- Notification of a change of placement is given to the student's parents/guardians

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

- Includes information regarding all methods available for completing the coursework
- States that the methods available for completing the coursework are available at no cost to the student [34 CFR §300.530; 20 USC §[1415\(k\)\(1\)](#)]

### Change in placement for removal

When a student with a disability is removed from the current educational placement, it is considered a change in placement if:

- 1) The removal is more than ten consecutive school days
- 2) The child has been subjected to a series of removals that constitute a pattern:
  - Because the series of removals total more than ten school days in a school year
  - Because the student's behavior is substantially like the student's behavior in previous incidents that resulted in the series of removals
  - Because of such additional factors as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another

WACO CHARTER SCHOOL, an open-enrollment charter school, will determine on a case-by-case basis whether a pattern of removals constitutes a change of placement (34 CFR §300.536).

#### Manifestation Determination Review (MDR)

If a student with a disability is removed and the removal results in a change of placement, within 10 school days of any decision to change the placement of a student with a disability because of a violation of the student code of conduct, WACO CHARTER SCHOOL, an open-enrollment charter school, must hold an ARD committee meeting to review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents/guardians to determine:

- 1) If the conduct in question was caused by or had a direct and substantial relationship to, the student's disability
- 2) If the conduct in question was the direct result of the LEA failure to implement the IEP

The conduct must be determined to be a manifestation of the student's disability if the ARD Committee determines that either condition (1) or (2) is met.

If the ARD Committee determines that the behavior was a manifestation of the student's disability, the ARD Committee must:

- 1) Conduct an FBA, unless the ARD Committee had conducted an FBA before the behavior that resulted in the change of placement occurred, and implemented a BIP for the student
- 2) If a BIP was already developed, review the BIP, and modify it, as necessary, to address the behavior

The student must then be returned to the last agreed-upon placement unless the ARD Committee agrees on a change of placement as part of a modification to the IEP or BIP [34 CFR §300.350(f)].

If the ARD Committee determines that condition (2) is met and the IEP was not implemented, WACO CHARTER SCHOOL, an open-enrollment charter school, must take immediate steps to remedy those deficiencies [34 CFR §300.530(e)].

#### Services during Removal

If a student is removed from the student's current placement for more than ten days, but it is not a manifestation of the student's disability or a special circumstance, or if the removal constitutes a change of placement WACO CHARTER SCHOOL, an open-enrollment charter school, must:

- 1) Provide educational services, as provided in § 300.101(a), to enable the student to continue to participate in the General Education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP

- 2) Receive, as appropriate, an FBA, and BIP services and modifications that are designed to address the behavior violation so that it does not recur

Services can be provided in an interim alternative educational setting.

WACO CHARTER SCHOOL, an open-enrollment charter school, is only required to provide services during periods of removal to a student with a disability who has been removed from his or her current placement for ten school days or less in that school year if it provides services to a child without disabilities who is similarly removed.

After a student with a disability has been removed from his or her current placement for ten school days in the same school year, if the current removal is for not more than ten consecutive school days and is not a change of placement under § 300.536, school personnel, in consultation with at least one of the student's teachers, determine the extent to which services are needed, as provided in § 300.101(a), to enable the child to continue to participate in the General Education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP [34 CFR §300.530(d)].

#### *Special Circumstances*

WACO CHARTER SCHOOL, an open-enrollment charter school, may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:

- 1) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of a SEA or an LEA
- 2) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of a SEA or an LEA
- 3) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a SEA or an LEA (34 CFR §300.530)

#### ***Notice Requirements***

All notices required to be provided to a student's parent or legal guardian, must all be provided to a student's educational decision-maker and caseworker when a student is found to be homeless.

#### ***Removal of students not determined to have a disability***

A student who has not been determined to be eligible for Special Education and Related Services under this part and who has engaged in behavior that violated the student code of conduct may assert any of the protections provided for in this part if the WACO CHARTER SCHOOL, an

open-enrollment charter school, knew the student was a student with a disability before the behavior that precipitated the disciplinary action occurred.

WACO CHARTER SCHOOL, an open-enrollment charter school, will be considered to know if before the behavior that precipitated the disciplinary action occurred:

- 1) The parent/guardian of the student expressed concern in writing to supervisory or administrative personnel of the WACO CHARTER SCHOOL, an open-enrollment charter school, or a teacher of the child, that the child needs Special Education and Related Services
- 2) The parent/guardian of the student requested an evaluation of the student under §§ 300.300 through 300.311
- 3) The teacher of the student, or other personnel of WACO CHARTER SCHOOL, an open-enrollment charter school, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the director of Special Education of WACO CHARTER SCHOOL, an open-enrollment charter school, or other supervisory personnel of the open-enrollment charter school

WACO CHARTER SCHOOL, an open-enrollment charter school, will not be deemed to know if:

- 1) The parent/guardian of the student did not allow an evaluation of the student under §§ 300.300 through 300.311, or refused services
- 2) The student was evaluated under §§ 300.300 through 300.311 and determined not to be a student with a disability

If it is determined that WACO CHARTER SCHOOL, an open-enrollment charter school, did not know, the student may be subjected to disciplinary measures as applied to students without disabilities. If a request for evaluation is made during the period that the student is subjected to a disciplinary measure, then the evaluation must be expedited. While the evaluation is being completed, the student remains in the educational placement determined by the school administration (34 CFR §300.534).

### ***Placement during an Appeal***

The parent/guardian of a student with a disability who disagrees with an ARD committee's decision to change placement or removal as defined under §§ 300.530 and 300.531, or disagrees with the manifestation determination under § 300.530(e), or WACO CHARTER SCHOOL, an open-enrollment charter school, believes that maintaining the current placement of the student is substantially likely to result in injury to the student or others, may appeal the decision by requesting a hearing under §§ 300.507 and 300.508(a) and (b) (34 CFR §300.532).

During an appeal, a student must remain in the interim alternative education placement pending the decision or until the end of the 45 days for a special circumstance, unless the parent/guardian and WACO CHARTER SCHOOL, an open-enrollment charter school, agree otherwise (34 CFR §300.533).



### ***Limitation on General Authority***

A student 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 school holder shall notify the school or district 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:

- 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) "District 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 district or school takes disciplinary action against a student and the student subsequently enrolls in another district or school before the expiration of the period of disciplinary action, the governing body of the district or school taking the disciplinary action shall provide to the district 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 district 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)].

### ***Referral to Law Enforcement***

Nothing in this section prohibits WACO CHARTER SCHOOL, an open-enrollment charter school, from reporting a crime committed by a student with a disability to appropriate authorities or prevents State law enforcement and judicial authorities from exercising their responsibilities concerning the application of Federal and State law to crimes committed by a child with a disability.

If WACO CHARTER SCHOOL, an open-enrollment charter school, reports a crime committed by a student with a disability, WACO CHARTER SCHOOL, an open-enrollment charter school, must ensure that copies of the Special Education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to who WACO CHARTER SCHOOL, an open-enrollment charter school, reports the crime.

WACO CHARTER SCHOOL, an open-enrollment charter school, may transmit copies of the student's Special Education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act (34 CFR §300.535).

## **CHARTER SCHOOL POLICY**

## **CONTRACTS FOR SERVICES, RESIDENTIAL PLACEMENT**

If needed, WACO CHARTER SCHOOL, 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 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 include appropriate education services, as determined by the Admission, Review, and Dismissal (ARD) committee, shall be paid from State and Federal education funds [TEC §29.008(c)].

If WACO CHARTER SCHOOL, an open-enrollment charter school, contracts for the provision of education services rather than providing the services, WACO CHARTER SCHOOL, an open-enrollment charter school, 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 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 following the contract as well as diagnostic or other evaluative information that the open-enrollment charter school requires to fulfill its obligations under Subchapter A (Special Education), Chapter 29, Texas Education Code [TEC §29.008(d)].

For additional information, see the *Least Restrictive Environment* policy.

## **CHARTER SCHOOL POLICY**

## **PRIOR WRITTEN NOTICE**

### ***Notice in Understandable Language***

WACO CHARTER SCHOOL, an open-enrollment charter school, must give the parent Prior Written Notice (PWN) within a reasonable amount of time before it:

- 1) Proposes to initiate or to change the identification, evaluation, or educational placement of the student, or the provision of a free appropriate public education (FAPE) to the student
- 2) Refuses to initiate or to change the identification, evaluation, or educational placement of the student, or the provision of FAPE to the student [34 CFR §89.1050(h); TAC §300.503(a)].

WACO CHARTER SCHOOL, an open-enrollment charter school, must provide PWN regardless of whether the parent/guardian agreed to the change or requested the change (OSEP Letter to Lieberman).

The prior written notice must be:

- 1) Written in language understandable to the public
- 2) Provided in the parent/guardian's native language or other modes of communication the parent uses following the school's policy on the use of parents/guardians' native language unless it is not feasible to do so [34 CFR §300.503(c)(1)].
- 3) If the native language or other modes of communication of the parent is not a written language, the Local Education Agency (LEA) must take steps to ensure that the notice is translated orally or by other modes of communication and that the parent understands the content of the notice [34 CFR §300.503(c)(2)]
- 4) A parent/guardian may elect to receive prior written notices by an electronic mail communication if the Local Education Agency (LEA) makes that option available (34 CFR §300.505).

### ***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 the Individuals with Disabilities Education Act (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 Admission, Review, and Dismissal (ARD) committee considered and the reasons why those options were rejected
- 8) Describe other reasons why the open-enrollment charter school proposed or refused the action [34 CFR §300.503(b)(1)-(7)].

### ***Timeline and Manner***

The PWN must:

- 1) The LEA must provide the parent with PWN at least five school days before the LEA proposes or refuses the action unless the parent/guardian agrees to a shorter timeframe
- 2) If a parent/guardian submits a written request to the LEA's Director of Special Education Services or an administrative employee for an initial evaluation, the LEA must, not later than the 15th school day after the date of receipt provide the parent/guardian with:
  - a. PWN of its proposal to conduct an evaluation, a copy of the Notice of Procedural Safeguards, and an opportunity to give written consent for initial evaluation
  - b. PWN of the school's refusal to conduct an evaluation and a copy of the Notice of Procedural Safeguards [34 C.F.R. §300.503(a); §300.300(b); §300.505; TAC §89.1050(h)].

### ***Notification for Homeless Children or Children in Substitute Care***

WACO CHARTER SCHOOL, an open-enrollment charter school, will provide notice to a student's educational decision-maker and caseworker regarding events that may significantly impact the education of a child, including:

- 1) Requests or referrals for an evaluation under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), or Special Education under Section 29.003 of the Texas Education Code (TEC)
- 2) Admission, Review, and Dismissal (ARD) committee meetings
- 3) Manifestation Determination Reviews (MDR) required by Section 37.004(b) of the TEC
- 4) Any disciplinary actions under Chapter 37 for which parental notice is required
- 5) Citations issued for Class C misdemeanor offenses on school property or at school-sponsored activities
- 6) Reports of restraint and seclusion required by Section 37.0021
- 7) Use of corporal punishment as provided by Section 37.0011 [TEC 29.007(a)(9)]

## **CHARTER SCHOOL POLICY**

## **CONSENT**

### ***Parental Consent for Initial Evaluation***

WACO CHARTER SCHOOL, an open-enrollment charter school, cannot conduct an initial evaluation of the student to determine whether the student is eligible under Part B of IDEA to receive Special Education and related services without first providing the parent/guardian with prior written notice of the proposed action and obtaining parental consent.

WACO CHARTER SCHOOL, an open-enrollment charter school, must make reasonable efforts to obtain the parent/guardian's informed consent for an initial evaluation to decide whether the student is a student with a disability.

If the parent/guardian requests, before signing the consent for a psychological evaluation, WACO CHARTER SCHOOL, an open-enrollment charter school, must provide the parent/guardian with the name and type of examination, and how the examination will be used to develop the Individual Education Plan (IEP) (TEC §29.0041).

After providing consent, if WACO CHARTER SCHOOL, an open-enrollment charter school, determines another evaluation is necessary, the parent/guardian must provide consent before WACO CHARTER SCHOOL, an open-enrollment charter school, beginning the additional evaluations.

The parent/guardian's consent for initial evaluation does not mean that the parent/guardian has also given consent for the open-enrollment charter school to start providing Special Education and related services to the student.

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

If the student is enrolled in or the parent/guardian is seeking to enroll the student in WACO CHARTER SCHOOL, an open-enrollment charter school, and the parent/guardian 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 student by using the IDEA 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 student if it does not pursue an evaluation of the student in these circumstances [34 CFR §§300.9; 300.300(a)(3)(i)].

### ***Special Rules for Initial Evaluation of Wards of the State***

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

- 1) Despite reasonable efforts to do so, the open-enrollment charter school cannot find the student's parent/guardian
- 2) The rights of the parents/guardians have been terminated under State law
- 3) A judge has assigned the right to make educational decisions to an individual other than the parent/guardian 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
- 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; 300.300).

### ***Parental Consent for Services***

WACO CHARTER SCHOOL, an open-enrollment charter school, must make reasonable efforts to obtain informed consent from the parent/guardian before providing Special Education and related services to the student for the first time.

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

If the parent/guardian refuses to give parental consent for the child to receive Special Education and related services for the first time, or if the parent/guardian 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 student with the Special Education and related services for which it sought the parent/guardian'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 student for its failure to provide those services to the student
- 2) Is not required to have an ARD meeting or develop an IEP for the student for the Special Education and related services for which the parent/guardian's consent was requested

If the parent/guardian revokes (cancels) the parent/guardian's consent in writing at any point after the student 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/guardian with prior written notice before discontinuing those services (34 CFR §300.300).

### ***Parental Consent for Reevaluations***

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to obtain the parent/guardian's informed consent before it reevaluates the student unless the open-enrollment charter school can demonstrate that:

- 1) It took reasonable steps to obtain the parent/guardian's consent for the student's reevaluation
- 2) The parent/guardian did not respond

If the parent/guardian refuses to consent to the student's reevaluation, the open-enrollment charter school may, but is not required to, pursue the student's reevaluation by using the

mediation, due process complaint, resolution meeting, and impartial due process hearing procedures to seek to override the parent/guardian's refusal to consent to the student'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 (34 CFR §300.300).

### ***Documentation of Reasonable Efforts to Obtain Parental Consent***

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to maintain documentation of reasonable efforts to obtain the parent/guardian's consent for initial evaluations, to provide Special Education and related services for the first time, for a reevaluation, and to locate parents/guardians 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/guardian and any responses received
- 3) Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits (34 CFR §300.300)

### ***Parental Consent to Access Public Benefits***

It is the policy of the WACO CHARTER SCHOOL, an open-enrollment charter school, to obtain consent from the parent/guardian each time that access to a parent/guardian's private insurance proceeds or public benefits or an insurance program is sought. Additionally, the school will inform the parent/guardian that a refusal to permit the Local Education Agency (LEA) from accessing the parent/guardian's private insurance does not relieve the school from its responsibility to ensure that all required services are provided to the parent/guardian at no cost [34 CFR §300.154(e)].

To receive proper consent, the school will:

1. Fully inform the parent/guardian of all information relevant to the school accessing the parent/guardian's private insurance and must be informed in the parent/guardian's native language
2. Describe the activity of accessing private insurance
3. Provide a list of records that will be released and to whom

To give proper consent, the parent/guardian must:

1. Understand and agree in writing the carrying out of accessing the parent/guardian's private insurance
2. Understand that the granting of access to the parent/guardian's insurance is voluntary and may be revoked at any time
3. Understand that if consent is revoked, the revocation is not retroactive [34 CFR §300.154(a)-(c)]

### ***Parental Consent for Transfer of Assistive Technology Devices***

It is the policy of the WACO CHARTER SCHOOL, an open-enrollment charter, school to obtain informed consent from the parent/guardian 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 student's evaluation or a reevaluation
- 2) Give the student a test or other evaluation that is given to all students unless, before that test or evaluation, consent is required from parents/guardians of all students 34 CFR 300.300(d)

## **CHARTER SCHOOL POLICY**

## **HEALTH AND SAFETY**

### ***Applicability of Title Relating to Health and Safety***

WACO CHARTER SCHOOL, 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 (TEC), or a rule adopted under Title 2 (Public Education) of the TEC, relating to health and safety under Chapter 38 (Health and Safety), TEC [TEC §12.104(b)(2)(K)]. WACO CHARTER SCHOOL, an open-enrollment charter school, adopts the requirements of Chapter 38 (Health and Safety), TEC under TEC §12.104(b)(2)(K).

### ***Access to Medical Records***

A school administrator, nurse, or teacher is entitled to access to a student's medical records maintained by WACO CHARTER SCHOOL, an open-enrollment charter school, for reasons determined by policy, as follows:

- When accessing the medical records is directly related to instructional or Related Services following the WACO CHARTER SCHOOL, an open-enrollment charter school [TEC §38.009(a)].
- A school administrator, nurse, or teacher who views medical records under TEC §38.009 shall maintain the confidentiality of those medical records [TEC §38.009(b)].
- TEC §38.009 does not authorize a school administrator, nurse, or teacher to require a student to be tested to determine the student's medical condition or status [TEC §38.009(c)].



### ***Parental Access to Medical Records***

A parent or guardian of a student is entitled to access to the student's medical records maintained by the school [TEC §38.0095(a)].

On the request of a student's parent or guardian, the school shall provide a copy of the student's medical records to the parent or guardian. The school may not impose a charge for providing the copy that exceeds the charge authorized by Section 552.261, Government Code, for providing a copy of public information [TEC §38.0095(b)].

### ***Referral to Outside Counselors***

WACO CHARTER SCHOOL, an open-enrollment charter school, or school employee may not refer a student to an outside counselor for care or treatment of chemical dependency or an emotional or psychological condition unless the school:

- 1) Obtains prior written consent for the referral from the student's parent/guardian
- 2) Discloses to the student's parent/guardian any relationship between the school and the outside counselor
- 3) Informs the student and the student's parent/guardian of any alternative public or private source of care or treatment reasonably available in the area
- 4) Requires the approval of appropriate school personnel before a student may be referred for care or treatment or before a referral is suggested as being warranted
- 5) Specifically prohibits any disclosure of a student record that violates State or Federal law [TEC §38.010(a)]

In TEC §38.010, "parent" includes a managing conservator or guardian [TEC §38.010(b)].

### ***Implementation of Coordinated Health Program***

WACO CHARTER SCHOOL, an open-enrollment charter school, shall:

- 1) Participate in appropriate training for the implementation of the program approved by the Texas Education Agency (TEA) under Section 38.013 (Coordinated Health Program for Elementary, Middle and Junior High School Students) designed to prevent obesity, cardiovascular disease, and Type 2 Diabetes
- 2) Implement the program in each elementary school, middle school, and junior high school [TEC §38.014(a)]

### ***Reporting of Certain Health and Safety Information***

WACO CHARTER SCHOOL, an open-enrollment charter school, shall provide to the agency information as required by the Commissioner, including statistics and data, relating to student health and physical activity and information described by TEC §28.004(k), presented in a form determined by the Commissioner (TEC §38.0141).

### ***Care for Students At-Risk for Anaphylaxis***

The policy for the care for Students At-Risk for Anaphylaxis is consistent with the WACO CHARTER SCHOOL, an open-enrollment charter school, and under the Texas Education Code.

### ***Self-Administration of Prescription Asthma or Anaphylaxis Medicine by Students***

For purposes of TEC §38.015:

1. "Parent" includes a person standing in parental relation.
2. "Self-administration of prescription asthma or anaphylaxis medicine" means a student's discretionary use of prescription asthma or anaphylaxis medicine [TEC §38.015(a)]

A student with asthma or anaphylaxis is entitled to possess and self-administer prescription asthma or anaphylaxis medicine while on school property or at a school-related event or activity if:

- 1) The prescription medicine has been prescribed for that student as indicated by the prescription label on the medicine
- 2) The student has demonstrated to the student's physician or other licensed health care provider and the school nurse, if available, the skill level necessary to self-administer the prescription medication, including the use of any device required to administer the medication
- 3) The self-administration is done in compliance with the prescription or written instructions from the student's physician or other licensed health care provider
- 4) A parent of the student provides to the school:
  - a. A written authorization, signed by the parent, for the student to self-administer the prescription medicine while on school property or at a school-related event or activity
  - b. A written statement from the student's physician or other licensed health care provider, signed by the physician or provider, that states:
    - i. The student has asthma or anaphylaxis and can self-administer the prescription medicine
    - ii. The name and purpose of the medicine
    - iii. The prescribed dosage for the medicine
    - iv. The times at which or circumstances under which the medicine may be administered
    - v. The period for which the medicine is prescribed [TEC §38.015(b)]

The physician's statement must be kept on file in the office of the school nurse of the school the student attends or, if there is not a school nurse, in the office of the principal of the school the student attends [TEC §38.015(c)]

TEC §38.015 does not:

- 1) Waive any liability or immunity of a governmental unit or its officers or employees
- 2) Create any liability for or a cause of action against a governmental unit or its officers or employees [TEC §38.015(d)]

***Psychotropic Drugs and Psychiatric Evaluations or Examinations***

For purposes of TEC §38.016:

- 1) "Parent" includes a guardian or other person standing in parental relation
- 2) "Psychotropic drug" means a substance that is:
  - a. Used in the diagnosis, treatment, or prevention of a disease or as a component of medication; and
  - b. Intended to have an altering effect on perception, emotion, or behavior [TEC §38.016(a)]

WACO CHARTER SCHOOL, an open-enrollment charter school, employees may not:

- 1) Recommend that a student use a psychotropic drug
- 2) Suggest any diagnosis
- 3) Use the refusal by a parent to consent to the administration of a psychotropic drug to a student or psychiatric evaluation or examination of a student as grounds, by itself, for prohibiting the child from attending a class or participating in a school-related activity [TEC §38.016(b)]

TEC §38.016(b) does not:

- 1) Prevent an appropriate referral under the Child Find requirements under 20 U.S.C. Section 1412, as amended
- 2) Prohibit a school employee who is a registered nurse, advanced nurse practitioner, physician, or certified or appropriately credentialed mental health professional from recommending that a child be evaluated by an appropriate medical practitioner
- 3) Prohibit a school employee from discussing any aspect of a student's behavior or academic progress with the student's parent or another school employee [TEC §38.016(c)]

WACO CHARTER SCHOOL, an open-enrollment charter school, shall ensure implementation and enforcement of TEC § 38.016 concerning psychotropic drugs and psychiatric evaluations or examinations.

An act in violation of TEC §38.016(b) does not override the immunity from personal liability granted in TEC §22.0511 (Immunity from Liability) or other law or the school's sovereign and governmental immunity [TEC §38.016)].

### ***Serving Students with Diabetes***

If a parent or guardian is seeking Diabetic care for a student while at school, the physician responsible for the student's Diabetes treatment must develop a Diabetes management and treatment plan (DMTP). The DMTP must:

- 1) Identify the health-care services the student may receive at school
- 2) Evaluate the student's ability to manage and level of understanding of the student's Diabetes
- 3) Be signed by the parent or guardian and the physician. The parent or guardian must submit the DMTP to the school

After a plan is submitted to the school, WACO CHARTER SCHOOL, an open-enrollment charter school, must review the plan before the beginning of the school year, upon enrollment, or as soon as practicable following a diagnosis of Diabetes for the student (Texas Health and Safety Code §168.002).

Once the school receives the DMTP an Individualized Health Plan (IHP) for the student. The IHP must be developed in collaboration with the student's parent or guardian and, to the extent practicable, the physician responsible for the student's Diabetes treatment and one or more of the student's teachers. A student's IHP must incorporate components of the student's DMTP, including the information required under Health and Safety Code 168.002(b) [Texas Health and Safety Code §§168.001(3) and 168.003].

Following the student's IHP, the student is permitted to attend to the management and care of the student's Diabetes, which may include:

- 1) Performing blood glucose level checks
- 2) Administering insulin through the insulin delivery system the student uses
- 3) Treating hypoglycemia and hyperglycemia
- 4) Possessing on the student's person at any time any supplies or equipment necessary to monitor and care for the student's Diabetes
- 5) Otherwise attending to the management and care of the student's Diabetes in the classroom, in any area of the school or school grounds, or at any school-related activity (Texas Health and Safety Code §168.008)

WACO CHARTER SCHOOL, an open-enrollment charter school, will ensure that a trained individual is present and available to provide the required care to a student with Diabetes during the regular school day.

WACO CHARTER SCHOOL, an open-enrollment charter school, may not restrict the placement of a student with Diabetes to a setting on the basis that the campus does not have the required personnel [Texas Health and Safety Code §168.007(c)–(d)].

### ***School-Based Health Centers***

WACO CHARTER SCHOOL, an open-enrollment charter school, may if the school identifies the need, design a model under Subchapter B (School-Based Health Centers), Chapter 38, TEC, for the delivery of cooperative health care programs for students and their families and may compete for grants awarded under Subchapter B (School-Based Health Centers). The model may provide for the delivery of conventional health services and disease prevention of emerging health threats that are specific to the school [TEC §38.051(a)].

## **CHARTER SCHOOL POLICY**

## **SPECIAL EDUCATION MONITORING AND COMPLIANCE**

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to comply with requirements of the system for monitoring Special Education compliance adopted by Texas Education Agency (TEA) under Texas Education Code (TEC) Section 29.010.

As of the 2017-2018 school year, TEA no longer has a performance indicator that solely measures the school's aggregated number or percentage of enrolled students who receive special education services. However, this does not prevent the school or TEA from meeting all state and federal reporting requirements as it relates to students in special education (TEC § 29.0011).

## **CHARTER SCHOOL POLICY**

## **SPECIAL EDUCATION VIDEO SURVEILLANCE**

It is the policy of the WACO CHARTER SCHOOL, an open-enrollment charter school, to utilize video surveillance to promote student safety in certain self-contained classrooms.

### ***Operation of Video Surveillance***

If installed, video cameras shall be operated at all times during the instructional day when students are in the self-contained classroom or another Special Education setting as long as the classroom or setting continues to satisfy the requirements in TEC, §29.022(a) or until a request for the video cameras is withdrawn. Video cameras placed in a self-contained classroom or another Special Education setting shall be capable of recording video and audio of all areas of the classroom or setting, and any attached room used for a time-out. There will be no video surveillance conducted of the inside of a bathroom or other area used for toileting or diapering a student or removing or changing a student's clothes, except for incidental coverage of a minor portion of the room that is unavoidable because of the classroom layout.

### ***Requests***

A parent/guardian, a staff member in a self-contained or Special Education classroom, or an assistant principal must submit a written request for installation and operation of video/audio recording equipment in a specified self-contained or Special Education setting to the campus

principal. A request submitted to the campus principal or a request by a campus principal must be submitted to the designated central office administrator.

A parent/guardian of a student whose ARD committee determines that a student's placement the following year will be in an eligible classroom has until the later of the date on which the current school year ends, or the 10<sup>th</sup> business day after the placement determination to request the installation of video equipment.

The board of directors may submit a written request for the installation and operation of video/audio recording equipment in a specified self-contained or Special Education setting by submitting a written request to the designated central office administrator.

### ***Access to the Video Recordings***

Video recordings created in compliance with Section 29.022 of the Texas Education Code are confidential and may only be viewed by the following:

1. A peace officer, school nurse, or administrator trained in de-escalation and restraint techniques as provided by commissioner rule or a human resources staff member designated by the school district's board of trustees or open-enrollment charter school's governing body in response to a complaint or an investigation of an incident involving abuse or neglect
2. An employee who is involved in an incident documented by the recording and who requested to view the recording
3. A parent/guardian of a student involved in an incident documented by the recording and who requested to view the recording
4. Texas Department of Family and Protective Services personnel as part of an investigation under Texas Family Code §261.406
5. Appropriate TEA or SBOE Certificate personnel or agents, as part of an investigation

Video footage will not be continually monitored, and recordings will be kept for 3 months unless a report is filed. If a report is filed, the recording will be kept until an investigation is resolved and all appeal deadlines are complete.

### ***Complaints Under TEC §29.022***

A person may file a local grievance under WACO CHARTER SCHOOL, an open-enrollment charter school. The grievance policy can be found in the WCS charter following the Texas Education Code.

The board of directors, a parent/guardian, staff member, or administrator may appeal a decision made by WACO CHARTER SCHOOL, an open-enrollment charter school, through the Texas Education Agency (TEA) appeals process. Information regarding an appeal under Section 7.058 of the TEC can be found on the TEA website.

The board of directors, a parent/guardian, staff member, or administrator may request an expedited review to the TEA if WACO CHARTER SCHOOL, an open-enrollment charter school:

- a. Denies a request for the installation of video/audio equipment
- b. A request for an extension of time to begin operation
- c. A determination not to release the video recording to a person that requested it

The Special Education dispute resolution procedures in 34 Code of Federal Regulations do not apply to complaints alleging WACO CHARTER SCHOOL, an open-enrollment charter school, is not in compliance with TEC §29.022.

## **CHARTER SCHOOL POLICY**

## **PUBLIC EDUCATION INFORMATION MANAGEMENT SYSTEM (PEIMS)**

“Most of the data the Texas Education Agency (TEA) requests from school districts and charter schools are gathered using the Public Education Information Management System (PEIMS). PEIMS data are used for the Academic Excellence Indicator System (AEIS), Foundation School Program (FSP), statistical purposes, federal reporting, legislative requests, and audit purposes. Through PEIMS, schools report data including student demographic and academic performance, student attendance, personnel information, financial data, and organizational information.” The *Texas Open-Enrollment Charter School Handbook* (TEA, Division of Charter School Administration, September 2011) is available at <http://www.esc11.net/cms/lib3/TX21000259/Centricity/Domain/67/CharterSchoolHandbook.pdf>.

### ***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 (TEC), or a rule adopted under Title 2 (Public Education) of the TEC, relating to PEIMS to the extent necessary to monitor compliance with Subchapter D (Open-Enrollment Charter School), Chapter 12, TEC [TEC §12.104(b)(2)(A)].

## **CHARTER SCHOOL POLICY**

## **SPECIAL EDUCATION RECORDS**

To the extent not stipulated in the WACO CHARTER SCHOOL , an open-enrollment charter school, Student Handbook Student Records statement WACO CHARTER SCHOOL, an open-enrollment charter school, adopts as policy the provisions under State and Federal law concerning special education records, as defined including:

***Electronic Student Records System (TReX)***

Each open-enrollment charter school shall participate in an electronic student records system that satisfies standards approved by the Commissioner of Education and the Commissioner of Higher Education [TEC §7.010(b)].

Any person involved in the transfer and retrieval of student information under Texas Education Code (TEC) §7.010 is subject to any State or Federal law governing the release of or providing access to any confidential information to the same extent as the educational institution from which the data is collected. A person may not release or distribute the data to any other person in a form that contains confidential information [TEC §7.010(f)]

***Applicability of the Family Educational Rights and Privacy Act***

The Family Educational Rights and Privacy Act (FERPA) applies to educational agencies or institutions receiving funds under any program administered by the U.S. Secretary of Education that provide educational services or instruction to students or are authorized to direct and control public elementary, secondary, or postsecondary educational institutions. As a recipient of these funds, the open-enrollment charter school must comply with (FERPA) (20 U.S.C. § 1232g; 34 CFR§ 99.1).

***Family Educational Rights and Privacy Act (FERPA)***

WACO CHARTER SCHOOL, an open-enrollment charter school, must comply with FERPA. FERPA is intended to protect the privacy of parents/guardians and students (34 CFR § 99.2).

All educational records related to a student and maintained by WACO CHARTER SCHOOL, an open-enrollment charter school, will remain confidential in compliance with FERPA.

Parents/guardians or adult students have the right to inspect and review the student's education records maintained by the school (34 CFR § 99.10). The open-enrollment charter school is not required to provide copies of records unless, for reasons such as great distance, parents/guardians or eligible students can't review the records (34 CFR § 99.11). An open-enrollment charter school may charge a fee for copies (34 CFR § 99.11).

Parents/guardians or adult students may request that WACO CHARTER SCHOOL, an open-enrollment charter school, correct records which they believe to be inaccurate or misleading (34 CFR § 99.20).

A parent/guardian or adult student requesting a correction shall submit a written request to the campus administrator. The campus administrator will provide a written decision to the parent/guardian or adult student within ten days of receiving the request.

If WACO CHARTER SCHOOL, an open-enrollment charter school, decides not to amend the record, the parent/guardian or eligible student then has the right to a formal hearing (34 CFR § 99.21). After the hearing, if the open-enrollment charter school still decides not to amend the



record, the parent/guardian or eligible student has the right to place a statement with the record setting forth his or her view about the contested information [34 CFR § 99.21(b)(2)].

Generally, WACO CHARTER SCHOOL, an open-enrollment charter school, must have written permission from the parent/guardian or eligible student to release any information from a student's education record (34 CFR § 99.30). However, FERPA allows the open-enrollment charter school to disclose records, without consent, to certain parties under certain conditions, including:

- 1) Officials of the Individuals with Disabilities Education Act (IDEA) Part B for purposes of meetings IDEA requirements
- 2) School officials including teachers within the open-enrollment charter school whom the open-enrollment charter school has determined to have legitimate educational interests [34 CFR § 99.31(a)(1)(i)(A)]
- 3) A contractor, consultant, volunteer, or other parties to whom the open-enrollment charter school has outsourced institutional services or functions, subject to the conditions outlined in FERPA regulations [34 CFR § 99.31(a)(1)(i)(B)]
- 4) Officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer, subject to the conditions outlined in FERPA regulations [34 CFR § 99.31(a)(1)(i)(B)]  
– WACO CHARTER SCHOOL, an open-enrollment charter school, will provide annual notification to parents/guardian and adult students that WACO CHARTER SCHOOL, an open-enrollment charter school, forwards educational records to other institutions that request the records and where the student seeks to enroll
- 5) Authorized representatives for compliance of federal and state programs [34 CFR § 99.31(a)(3) and § 99.35], including:
  - a. The Comptroller General of the United States or Texas
  - b. The Attorney General of the United States or Texas
  - c. The US Secretary of Education or Commissioner of Education of Texas
  - d. Texas Education Agency (TEA)
- 6) Specified officials for audit or evaluation purposes [34 CFR § 99.31(a)(3)]
- 7) Appropriate parties in connection with financial aid to a student to determine eligibility, amount, conditions, and enforcement of terms and conditions of aid [34 CFR § 99.31(a)(4)]
- 8) A parent/guardian or adult student, or to a parent/guardian of a dependent adult student [34 CFR § 99.31(a)(8), (a)(12), and (d)]
- 9) Organizations conducting certain studies for or on behalf of the open-enrollment charter school [34 CFR § 99.31(a)(6)], only if
  - a. The study does not disclose personal identification of parents/guardian and students to anyone other than those with a legitimate interest in the information
  - b. The information will be destroyed when no longer needed
  - c. There is an agreement between the school and organization outlining the purpose, scope, and duration of the study, including the limitation of use for personally identifiable information from education records

- 10) Accrediting organizations [34 CFR § 99.31(a)(6)]
- 11) To comply with a judicial order or lawfully issued subpoena [34 CFR § 99.31(a)(9)]
- 12) Appropriate officials in cases of health and safety emergencies if knowledge of the information is necessary to protect the health and safety of the student or others [34 CFR § 99.31(a)(10) and §99.36]
- 13) At the request of a juvenile service provided, the charter school must disclose confidential information in the student's educational records if the student has been taken into custody in connection with a proceeding in juvenile or family court, or if the student is referred to a juvenile court for allegedly engaging in delinquent behavior or conduct indicating a need for supervision [34 CFR § 99.31(a)(5)]
- 14) To a state agency caseworker or other representatives of a child welfare agency that has the right to access a student's case plan when the agency is legally responsible for the student, so long as the agency will not disclose personally identifiable information of the student [20 USC §1232 g (b)(1)(L) and 25 USC §5304(l)]
- 15) Information that is deemed to be directory information [34 CFR §99.31(a)(11) and §99.31(b)]

The open-enrollment charter school must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests. WACO CHARTER SCHOOL, an open-enrollment charter school, that does not use physical or technological access controls must ensure that its administrative policy for controlling access to education records is effective and that it remains in compliance with the legitimate educational interest requirement in 34 CFR § 99.31(a)(1)(i)(A) [34 CFR § 99.31(a)(1)(ii)].

WACO CHARTER SCHOOL, an open-enrollment charter school, may disclose, without consent, "directory" information.

The open-enrollment charter school must notify parents/guardians and eligible students annually of their rights under FERPA [34 CFR § 99.7(a)(1)].

### ***Annual Notification of Rights under FERPA***

WACO CHARTER SCHOOL, an open-enrollment charter school, must annually notify parents/guardians of students currently in attendance, or eligible students currently in attendance, of their rights under FERPA and its implementing regulations [34 CFR § 99.7(a)(1)].

The notice must inform parents/guardians or eligible students that they have the right to:

- 1) Inspect and review the student's education records
- 2) Seek amendment of the student's education records that the parent/guardian or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights
- 3) Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA and 34 CFR §99.31 authorize disclosure without consent; and

- 4) File with the Department a complaint under 34 CFR §§99.63 and 99.64 concerning alleged failures by the educational agency or institution to comply with the requirements of FERPA and its implementing regulations [34 CFR § 99.7(a)(2)]

The notice must include all the following:

- 1) The procedure for exercising the right to inspect and review education records
- 2) The procedure for requesting amendment of records under 34 CFR §99.20
- 3) If the educational agency or institution has a policy of disclosing education records under 34 CFR §99.31(a)(1), a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest [34 CFR § 99.7(a)(3)]

WACO CHARTER SCHOOL, an open-enrollment charter school, may provide this notice by any means that are reasonably likely to inform the parents/guardian or eligible students of their rights, including:

- 1) The open-enrollment charter school must effectively notify parents/guardian or eligible students who are disabled
- 2) The open-enrollment charter school must effectively notify parents/guardian who has a primary or home language other than English [34 CFR § 99.7(b)]

### ***Directory Information under FERPA***

Directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed (34 CFR § 99.3).

Directory information includes, but is not limited to, the student's name, address, telephone listing, electronic mail address, photograph, date, and place of birth, major field of study, grade level, enrollment status (e.g., undergraduate or graduate, full-time or part-time), dates of attendance, participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors, and awards received, and the most recent educational agency or institution attended (34 CFR § 99.3).

Directory information does not include a student's:

- 1) Social Security number
- 2) Student identification (ID) number, except as provided below (34 CFR § 99.3)

WACO CHARTER SCHOOL, an open-enrollment charter school, directory information includes a student ID number, user ID, or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number (PIN), password, or other factor known or possessed only by the authorized user (34 C.F.R. § 99.3).

WACO CHARTER SCHOOL, an open-enrollment charter school, may disclose directory information if it has given public notice to parents/guardians of students in attendance and eligible students in attendance at the open-enrollment charter school of:

- 1) The types of personally identifiable information that the open-enrollment charter school has designated as directory information
- 2) A parent/guardian's or eligible student's right to refuse to let the open-enrollment charter school designate any or all those types of information about the student as directory information
- 3) The period within which a parent/guardian or eligible student has to notify the open-enrollment charter school in writing that he or she does not want any or all of those types of information about the student designated as directory information [34 CFR § 99.37(a)]

The open-enrollment charter school may disclose directory information about former students without complying with the notice and opt-out conditions in 34 CFR § 99.37(a). However, the open-enrollment charter school must continue to honor any valid request to opt-out of the disclosure of directory information made while a student was in attendance unless the student rescinds the opt-out request [34 CFR § 99.37(b)].

A parent/guardian or eligible student may not use the right under 34 CFR § 99.37(a)(2) to opt-out of directory information disclosures to prevent an educational agency or institution from disclosing or requiring a student to disclose the student's name, identifier, or institutional e-mail address in a class in which the student is enrolled [34 CFR § 99.37(c)].

WACO CHARTER SCHOOL, an open-enrollment charter school, may not disclose or confirm directory information without meeting the written consent requirements in 34 CFR §99.30 if a student's social security number or other non-directory information is used alone or combined with other data elements to identify or help identify the student or the student's records [34 CFR § 99.37(d)].

For more information about directory information, see WACO CHARTER SCHOOL, an open-enrollment charter school, policy 400.060 FERPA.

### ***Personally, Identifiable Information***

Personally, Identifiable Information includes, but is not limited to:

- The student's name
- The name of the student's parent/guardian or other family members
- The address of the student or student's family
- A personal identifier, such as the student's social security number, student identification number, or biometric record
- Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name

- Other information that alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty
- Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates (34 CFR §99.3)

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, that operators operating a website, online service, online application, or mobile application that the operator knows is being used primarily for a school purpose must comply with the Texas Education Code (TEC) §32.151. The operator may not use targeted advertising, use information, or sell or rent information acquired by the operator through the use of the operator's website, online service, online application, or mobile application that the operator knows is being used primarily for school purposes. An operator may use information or share information in compliance with TEC §32.153, §32.154, or §32.157.

### ***Special Education Eligibility Folder***

It is the policy of the WACO CHARTER SCHOOL, an open-enrollment charter school, to maintain an eligibility folder for each student receiving special education services, in addition to the student's cumulative record, that complies with 19 TAC §89.1075(a).

### ***Redisclosure of Information***

WACO CHARTER SCHOOL, an open-enrollment charter school, may disclose personally identifiable information only on the condition that the person receiving this information will not disclose this information without the prior consent of the parent/guardian or adult student. The information disclosed may only be used for purposes for which the disclosure was made.

Redisclosure is permissible, without parent/guardian or adult student consent if:

1. The adult student is a dependent of the parent/guardian requesting
2. To comply with a court order or subpoena
3. Information is directory information
4. Parent/guardian of a student that is not an adult
5. Disclosure is related to elements of disciplinary proceedings at a postsecondary institution
6. Disclosure is to the parent/guardian of a student at a post-secondary institution for violating any law related to possession of alcohol or controlled substance
7. Disclosure concerns sex offenders and others required to register (34 CFR §99.31, §99.33, and §99.39)

### ***Record of Access***

WACO CHARTER SCHOOL, an open-enrollment charter school, must maintain a record of each request for access to and each disclosure of personally identifiable information from the educational records of each student. The record of access must include a list of authorities that may make further redisclosures of the requested information in connection with an audit or evaluation of the Federal or State-supported education programs, or connection with the enforcement of or compliance with legal requirements (34 CFR §99.31, §99.32, §99.33, and §99.35).

For each request or disclosure, the record of access will include:

1. Name of the party who requested and received information
2. The legitimate interest of the party requesting the information
3. The data access was given
4. If disclosed, the record of access must also include, the names of additional parties to which the information may be shared with or on behalf of WACO CHARTER SCHOOL, an open-enrollment charter school, and the legitimate interest which each additional party has in requesting the information (34 CFR §99.32)

If WACO CHARTER SCHOOL, an open-enrollment charter school, shares information under the health or safety emergency exception, the record of access must include:

1. The articulable and significant threat to the health or safety of the students or individuals that formed the basis for the disclosure
2. The parties to which the information was shared (34 CFR §99.32, §99.32, and §99.36)

Upon request from a parent/guardian or adult student to review the student's record of disclosure, WACO CHARTER SCHOOL, an open-enrollment charter school, must obtain a record of further disclosure from the State or Federal Agency Official and make it available in response to the parent/guardian or adult student's request (34 CFR §99.31, §99.32, and §99.35).

Upon request by WACO CHARTER SCHOOL, an open-enrollment charter school, an agency, institution, or official that maintains the record of access of further disclosure must provide a copy of the record of access of further disclosure to WACO CHARTER SCHOOL, an open-enrollment charter school, within 30 days (34 CFR §99.32).

The record of access does not need to include any of the following parties requesting information:

1. Parent/guardian or adult student request
2. School official with a legitimate educational interest
3. A party with written consent from the parent/guardian
4. A party seeking directory information

5. A party seeking records in compliance with a grand jury or other law enforcement subpoena and the issuing court has requested the information furnished not be disclosed (34 CFR §99.31 and §99.32)

WACO CHARTER SCHOOL, an open-enrollment charter school, will maintain the record of access following the school's record-keeping policy. If records are disclosed to a juvenile service provided, the record of access will be maintained for seven years from the date of disclosure.

The record of access may be inspected by:

1. Parent/guardian or adult student
2. School officials responsible for maintaining records
3. School officials and authorized representatives for purposes of audit recording keeping procedures (34 CFR §99.31, §99.32, and §99.35)

### ***Records Retention Schedule***

Under the Texas Local Government and Texas Government Code, WACO CHARTER SCHOOL, an open-enrollment charter school, maintains school records following the WCS Charter and the Texas Education Code.

## **CHARTER SCHOOL POLICY**

## **TEACHER REQUESTED REVIEW**

### ***Teacher-Requested Review of Individual Education Program***

WACO CHARTER SCHOOL, an open-enrollment charter school, is required to develop a process for a teacher who instructs a student with a disability in a regular classroom setting to:

- 1) Request a review of the student's Individualized Education Plan (IEP)
- 2) Provide for a timely response to the teacher's request
- 3) Provide for notification to the student's parent or legal guardian of that response [TEC §29.001(11)]

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to provide teachers with a copy of students' IEPs at the beginning of each school year and following each Admission, Review, and Dismissal (ARD) committee meeting. Teachers may also request to review a student's IEP at any time, to ensure that the teacher can properly implement the student's IEP.

All requests should be submitted to the Special Education Director for the teacher's campus.

Once a teacher requests a student's IEP, the Special Education Director will be provided a copy of the student's IEP within 48 hours.

Parents will be notified when a teacher receives a copy of a student's IEP [TEC §29.001(11)].

## **CHARTER SCHOOL POLICY**

## **COMPLIANCE WITH FEDERAL FUNDING REQUIREMENTS: IDEA**

In addition to *Policy* 100.080 FEDERAL FISCAL COMPLIANCE, WACO CHARTER SCHOOL, an open-enrollment charter school, adopts the following policy.

All funds requested under IDEA Part B will only be used for those items that are reasonable and necessary to provide a Special Education program at WACO CHARTER SCHOOL, an open-enrollment charter school.

### ***Compliance***

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to use IDEA Part B funds received to:

- 1) comply with the Federal maintenance of effort (MOE) requirements
- 2) supplement State, local, and other Federal funds and not supplant such funds
- 3) pay the excess costs of providing Special Education and related services to children with disabilities and must be used to supplement State, local, and other Federal funds [34 CFR §300.202, 20 USC §1413(a)(2)]

### ***Reducing the Level of Expenditures***

Funds provided to WACO CHARTER SCHOOL, an open-enrollment charter school, will not be used to reduce the level of expenditures for the education of students with disabilities made by WACO CHARTER SCHOOL, an open-enrollment charter school, below the level of those funds for the preceding year [2 USC §1423(a)(2)(A)(iii), Appendix E to Part 300].

WACO CHARTER SCHOOL, an open-enrollment charter school, may reduce the level of expenditures if the reduction is attributable to:

- 1) Voluntary departure, retirement, or departure for just cause of Special Education personnel
- 2) A decrease in enrollment of students with disabilities
- 3) The termination of the obligation of WACO CHARTER SCHOOL, an open-enrollment charter school, to provide a Special Education program to a particular student with a disability that is an exceptionally costly program because the child left WACO CHARTER SCHOOL, an open-enrollment charter school, aged out of services, or no longer needs Special Education
- 4) The termination of costly expenditures for long-term purchases
- 5) The assumption of cost by the high-cost fund operated by TEA (34 CFR §300.204)



### ***Excess Expenditures***

It is the policy of the open-enrollment charter school that had 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 another education-related setting to a child with a disability following the IEP of the student, even if nondisabled students benefit from such services
- 2) To develop and implement coordinated, early intervening educational services in compliance with student find and general administration requirements, including:
  - Early intervening services, which may include interagency financing structures, for students in kindergarten through grade 12 (with a particular emphasis on students 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 the 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 the 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 [34 CFR §§300.208, 20 USC §1413(a)]

### ***Early Intervening Services***

Funds made available for early intervening services must supplement not supplant funds available under the ESEA [(34 CFR §300.226(e)].

### ***Use of IDEA Part B funds for Title 1 Programs***

Notwithstanding any other provisions related to the commingling of funds, WACO CHARTER SCHOOL, an open-enrollment charter school, may use IDEA Part B funds received for any fiscal year to carry out a Title 1, Part A schoolwide 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 students with disabilities in the jurisdiction of the school; and multiplied by
- The number of students with disabilities participating in the schoolwide program (34 CFR §300.206; 20 USC §1413)

### ***IDEA Grant***

When requesting grant funds under IDEA, WACO CHARTER SCHOOL, an open-enrollment charter school, will budget for all costs in the grant application. The budget submitted will provide the following:

1. The amount requested is expected to have an impact on the stated needs, and the expected outcomes are sufficient to justify the requested amount
2. The Special Education programs identify other sources of funds
3. All expenditures are pertinent to and appropriate for the objectives and activities stated (EDGAR General and Fiscal Guidelines)

### ***Federal Grant Records***

In addition to the Records Management Policy, when WACO CHARTER SCHOOL, an of an open-enrollment charter school, receives a Federal grant, the school will maintain records that show:

1. The number of grant funds
2. How the funds were used
3. The total cost of the grant project
4. Any costs provided by other fund sources
5. Records to facilitate an effective audit
6. Compliance with the program requirements; and
7. Records of significant project experiences and results

All records related to Federal grants or funds will be maintained for three years after the date of submission of the single or last expenditure report by the TEA. If the following circumstances, the retention period will be extended to five years:

1. Any litigation, claim, or audit started before the 5-year retention period will be maintained until all litigation, claims, or audit findings involving the records have been resolved
2. If WACO CHARTER SCHOOL, an open-enrollment charter school, is notified in writing by an entity awarding, auditing, or overseeing funds to extend the retention period
3. Records for real property and equipment acquired by Federal funds must be maintained for 3 years after final disposition
4. When WACO CHARTER SCHOOL, an open-enrollment charter school, must report program income after the period of performance, the retention period for the records of the earning of the program income starts from the end of the WACO CHARTER

SCHOOL, an open-enrollment charter school, fiscal year in which the program income is earned

5. Indirect cost rate proposals and cost allocations plan including indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates):
  - a. If the proposal, plan, or other computation is required to be submitted to the Federal government (or to the pass-through entity) to form the basis for negotiation of the rate, then the retention period for its supporting records starts from the date of such submission
  - b. If the proposal, plan, or other computation is not required to be submitted to the Federal government (or to the pass-through entity) for negotiation purposes, then the retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or another accounting period) covered by the proposal, plan, or other computation (2 CFR §200.333)

## **CHARTER SCHOOL POLICY**

## **COMPLIANCE WITH FEDERAL FUNDING REQUIREMENTS: TITLE 1**

To the extent required under Title 1 of the Elementary and Secondary Education Act, WACO CHARTER SCHOOL, an open-enrollment charter school, shall ensure equity among school programs in staff/student ratios and 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 under 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 the campus.

## **CHARTER SCHOOL POLICY**

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

Instructional materials adopted by WACO CHARTER SCHOOL, an open-enrollment charter school, must be provided to students at no cost.

WACO CHARTER SCHOOL, an open-enrollment charter school, is entitled to the instructional materials allotment under Chapter 31 and subject to Chapter 31 as if the school were a school district. (TEC §31.005).

WACO CHARTER SCHOOL, an open-enrollment charter school, is entitled to an allotment each biennium from the State instructional materials fund for each student enrolled in the school on a date during the last year of the preceding biennium specified by the Commissioner. An allotment shall be transferred from the State instructional materials fund to the credit of the school’s instructional materials account as provided by TEC §31.0212.

If WACO CHARTER SCHOOL, an open-enrollment charter school, 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 (TEA) acquires print instructional materials.

If the school chooses not to coordinate with NIMAC, the school will provide an assurance to TEA indicating that WACO CHARTER SCHOOL, an open-enrollment charter school, will provide instructional materials to blind persons or other persons with print disabilities promptly [34 CFR §300.210(a)].

## **CHARTER SCHOOL POLICY**

## **NONEDUCATIONAL COMMUNITY-BASED SUPPORT SERVICES**

Students with disabilities and their families may be eligible to receive noneducational community-based support services paid for by public funds, also known as “non-ed funds”.

The Texas Education Agency (TEA) is responsible for establishing procedures and criteria for the allocation of non-ed funds to open-enrollment charter schools for the provision of noneducational community-based support services to certain students with disabilities and their families so that those students may receive a free appropriate public education (FAPE) in the least restrictive environment (LRE) [TEC §29.013(a)].

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to use funds allocated under Texas Education Code (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 FAPE in the LRE. 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 non-educational reasons. Funds cannot be used to cover services already required through the student’s Individual Education Plan (IEP) or for long-term care [TEC §29.013(d)].

For more information about allowable and unallowable expenditures, you can access a copy of the TEA approved list at the Educational Service Center for Region 12 website:  
[http://www.esc12.net/page/se\\_1home](http://www.esc12.net/page/se_1home).

The WCS Special Education Coordinator will work with a student’s family to fill out an application for noneducational funds. A copy of the application can be found at the Educational

Service Center for Region 12 website: [http://www.esc12.net/page/se\\_1home](http://www.esc12.net/page/se_1home). Each school year funds are made available for services received between September 1 and August 31.

## **CHARTER SCHOOL POLICY**

## **STATE FUNDING: SPECIAL ALLOTMENTS**

It is the policy of WACO CHARTER SCHOOL, an open-enrollment charter school, to maintain a record of students participating in special programs under the Commissioner 's rules (19 TAC §129.21).

### ***Special Education Allotment***

Each open-enrollment charter school will receive an annual allotment equal to the adjusted basic allotment multiplied by 1.1 for each student receiving Special Education and Related Services in a mainstream instructional arrangement. For each full-time equivalent student receiving Special Education and Related Services in average daily attendance in an instructional arrangement other than a mainstream instructional arrangement, the open-enrollment charter school is entitled to an annual allotment equal to the adjusted basic allotment multiplied by a weight determined according to the instructional arrangement as outlined in Section 42.151, Texas Education Code (TEC).

Funds allocated under this section, other than an indirect cost allotment established under State Board of Education (SBOE) rule, must be used in the Special Education program under Subchapter A, Chapter 29 (TEC §42.151).

### ***High-Cost Risk Pool Funds***

Under Rider 36, General Appropriations Act, 82nd Texas Legislature, an open-enrollment charter school may apply to the High-Cost Fund (HCF) maintained by the Texas Education Agency (TEA) for an award of funds to assist the school in addressing the needs of high-need children with disabilities when the cost of serving such a child is greater than four times the average per-pupil expenditure in the state.

The HCF must not be used to:

1. Limit or condition the right of a student with a disability who is assisted under Part B of the Act to receive a free appropriate public education (FAPE) in the least restrictive environment (LRE) under section 612(a)(5) of the Act
2. Support legal fees, court costs, or other costs associated with a cause of action brought on behalf of a student with a disability to ensure FAPE for such student

### ***Compensatory Education Allotment***

WACO CHARTER SCHOOL, an open-enrollment charter school, must use funds allocated under TEC §42.152(a) for a purpose authorized in Texas Education Code (TEC) §42.152(c) but

is not otherwise subject to Subchapter C (Compensatory Education Programs), Chapter 29, TEC governing compensatory educational programs. (TEC §42.152(c))

Funds allocated under TEC §42.152 shall be used to fund supplemental programs and services designed to eliminate any disparity in performance on assessment instruments administered under Subchapter B (School-Based Health Centers), Chapter 39, TEC or disparity in the rates of high school completion between students at risk of dropping out of school, as defined by TEC §29.081 (Compensatory, Intensive, and Accelerated Instruction) and all other students. Specifically, the funds, other than an indirect cost allotment established under SBOE rule, which may not exceed 45 percent, may be used to meet the costs of providing a compensatory, intensive, or accelerated instruction program under TEC §29.081 or an alternative education program established under TEC §37.008 (Disciplinary Alternative Education Programs) or to support a program eligible under Title I of the Elementary and Secondary Education Act of 1965, as provided by Pub. L. No. 103-382 and its subsequent amendments, and by Federal regulations implementing that Act, at a campus at which at least 40 percent of the students are educationally disadvantaged. In meeting the costs of providing a compensatory, intensive, or accelerated instruction program under TEC §29.081, WACO CHARTER SCHOOL, an open-enrollment charter school, compensatory education allotment shall be used for costs supplementary to the regular education program, such as costs for the program and student evaluation, instructional materials and equipment and other supplies required for quality instruction, supplemental staff expenses, salary for teachers of at-risk students, smaller class size, and individualized instruction (TEC §42.152).

### ***Bilingual Education Allotment***

For each student in average daily attendance in bilingual education or special language program under Subchapter B, Chapter 29, an open-enrollment charter school is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 0.1. Funds allocated under this section, other than an indirect cost allotment established under SBOE rule, must be used in providing bilingual education or special language programs under Subchapter B, Chapter 29, and must be accounted for under existing agency reporting and auditing procedures. An open-enrollment charter school's bilingual education or special language allocation may only be used for program and student evaluation, instructional materials and equipment, staff development, supplemental staff expenses, salary supplements for teachers, and other supplies required for quality instruction and smaller class size [TEC §§12.104(b)(2)(G) and 42.153].

### ***Career and Technology Education Allotment***

For each full-time equivalent student in average daily attendance in an approved Career and Technology Education (CTE) program in grades nine through 12 or in CTE programs for students with disabilities in grades seven through 12, an open-enrollment charter school is entitled to:

1. An annual allotment equal to the adjusted basic allotment multiplied by a weight of 1.35
2. \$50, if the student is enrolled in:

3. Two or more advanced career and technology education classes for a total of three or more credits
4. An advanced course as part of a tech-prep program under Subchapter T, Chapter 61

For purposes of this allotment, "full-time equivalent student" means 30 hours of contact a week between a student and CTE program personnel.

Funds allocated under this section, other than an indirect cost allotment established under SBOE rule, must be used in providing CTE programs in grades nine through 12 or CTE programs for students with disabilities in grades seven through 12 under Sections 29.182, 29.183, and 29.184 [TEC §§12.104(d) and 42.154].

### ***Indirect Cost Allotments***

Beginning with the 2012–13 school year, an open-enrollment charter school may choose to use a greater indirect cost allotment under Education Code 42.151, .153, .154, and .156, to the extent the school receives less funding per weighted student in State and Local maintenance and operations revenue than in the 2011–12 school year.

The Commissioner will limit the percentage increase in allowable indirect cost to no more than the percentage decrease in State and Local maintenance and operations revenue from the 2011–2012 school year (TEC §42.1541; 19 TAC §105.11).

## **CHARTER SCHOOL POLICY**

## **SHARED SERVICES ARRANGEMENTS**

WACO CHARTER SCHOOL, an open-enrollment charter school, may enter 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 following the shared services arrangement schools/charters' agreement (TEC §29.007).

### ***Residential Placement Contracts***

If needed, WACO CHARTER SCHOOL, 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)].