TPCSA Model Board Policy Series

Module 4 – *Personnel*

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PG-4.101 EQUAL EMPLOYMENT OPPORTUNITY

SEC. 1. NONDISCRIMINATION IN GENERAL

RMA shall not fail or refuse to hire or discharge any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment on the basis of any of the following protected characteristics:

1. Race, color, or national origin;
2. Sex or gender;
3. Religion;
4. Age (applies to individuals who are 40 years of age or older);
5. Disability; or
6. Genetic information.

42 U.S.C. 1981; 42 U.S.C. 2000e et seq. (Title VII); 20 U.S.C. 1681 et seq. (Title IX); 42 U.S.C. 12111 et seq. (Americans with Disabilities Act); 29 U.S.C. 621 et seq. (Age Discrimination in Employment Act); 29 U.S.C. 793, 794 (Rehabilitation Act); 42 U.S.C. 2000ff et seq. (Genetic Information Nondiscrimination Act); U.S. Const. Amend. I; Human Resources Code 121.003(f); Texas Labor Code Chapter 21 (Texas Commission on Human Rights Act); Texas Labor Code Chapter 21, Subchapter H (genetic information).

a) Job Qualification

RMA may take employment actions based on religion, sex, national origin, or age in those certain instances where religion, sex, national origin, or age is a bona fide occupational qualification.

42 U.S.C. 2000e-2(e); 29 U.S.C. 623(f); Labor Code 21.119.

b) Employment Postings

RMA shall not print or publish any notice or advertisement relating to school employment that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, or national origin, unless the characteristic is a bona fide occupational qualification.

42 U.S.C. 2000e-3(b); Labor Code 21.059.

c) Harassment of Employees

RMA shall maintain a working environment free of harassment on the basis of protected characteristics.

42 U.S.C. 2000e et seq.; 29 CFR 1606.8(a), 1604.11.

d) Retaliation

RMA may not discriminate against any employee or applicant for employment because the employee or applicant has opposed any unlawful, discriminatory employment practices or participated in the investigation of any complaint related to an unlawful, discriminatory employment practice.

29 U.S.C. 623(d) (ADEA); 42 U.S.C. 2000e-3(a) (Title VII); 34 CFR 100.7(e) (Title VI); 34 CFR 110.34 (Age Act); 42 U.S.C. 12203 (ADA); Jackson v. Birmingham Bd. of Educ., 544 U.S. 167 (2005) (Title IX); Labor Code 21.055.

e) Notices

The Superintendent or designee shall post in conspicuous places upon its premises a notice setting forth the information the Equal Employment Opportunity Commission deems appropriate to effectuate the purposes of the anti-discrimination laws.

29 U.S.C. 627; 42 U.S.C. 2000e-10.

i. *Section 504 Notice*

The Superintendent or designee shall take appropriate steps to notify applicants and employees, including those with impaired vision or hearing, that RMA does not discriminate on the basis of disability.

The notice shall state:
1. That RMA does not discriminate in employment in its programs and activities; and
2. The identity of RMA's 504 Coordinator.

Methods of notification may include:
1. Posting of notices;
2. Publication in newspapers and magazines;
3. Placing notices in School publications; and
4. Distributing memoranda or other written communications.

If RMA publishes or uses recruitment materials containing general information that it makes available to applicants or employees, it shall include in those materials a statement of its non-discrimination policy.

34 CFR 104.8.

f) Racial Discrimination Based on Hair Texture or Protective Hairstyle

For purposes of RMA policy, any provision referring to discrimination because of race or on the basis of race includes discrimination because of or on the basis of an employee's hair texture or protective hairstyle commonly or historically associated with race. The term "protective hairstyle" includes braids, locks, and twists.

Labor Code 21.1095.

SEC. 2. AGE DISCRIMINATION

The prohibition against discrimination on the basis of age applies only to discrimination against an individual 40 years of age or older.

29 U.S.C. 631; Labor Code 21.101.

RMA may take an employment action on the basis of age pursuant to a bona fide seniority system or a bona fide employee benefit plan. However, a bona fide employee benefit plan shall not excuse the failure to hire any individual and no such benefit plan shall require or permit the involuntary retirement of any individual because of age.

29 U.S.C. 623(f); Labor Code 21.102.

SEC. 3. SEX DISCRIMINATION

a. Gender Stereotypes

RMA may not evaluate employees by assuming or insisting that they match the stereotype associated with their group.

Price Waterhouse v. Hopkins, 490 U.S. 228 (1989).

b. Pregnancy

RMA shall treat women affected by pregnancy, childbirth, or related medical conditions the same for all employment-related purposes, including receipt of benefits under fringe benefit programs.

42 U.S.C. 2000e(k); 42 U.S.C. Ch. 21G (Pregnant Worker Fairness Act); 29 CFR 1604.10; Labor Code 21.106.

c. Equal Pay

RMA may not pay an employee at a rate less than the rate paid to employees of the opposite sex for equal work on jobs the performance of which require equal skill, effort, or responsibility and which are performed under similar working conditions. This rule does not apply if the payment is pursuant to a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on any other factor other than sex.

29 U.S.C. 206(d)(Equal Pay Act); 34 CFR 106.54 (Title IX).

SEC. 4. RELIGIOUS DISCRIMINATION

The prohibition against discrimination on the basis of religion includes all aspects of religious observances and practice, as well as religious belief, unless RMA demonstrates that it is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship to RMA's business. "Undue hardship" means more than a de minimus (minimal) cost.

42 U.S.C. 2000e(j); 29 CFR 1605.2; Labor Code 21.108.

RMA may not substantially burden an employee's free exercise of religion, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest.

Civ. Prac. & Rem. Code 110.003.

SEC. 5. DISABILITY DISCRIMINATION

RMA may not discriminate against a qualified individual on the basis of disability in job application procedures, hiring, advancement, or discharge of employees, compensation, job training, and other terms, conditions, and privileges of employment.

42 U.S.C. 12112(a), 12201(g); 29 U.S.C. 794(a); Labor Code 21.051, 21.105.

a. Discrimination Based on Lack of Disability

The Americans with Disabilities Act ("ADA") and the Texas Commission on Human Rights Act do not provide a basis for a claim that an individual was subject to discrimination because of the individual's lack of disability.

42 U.S.C. 12201(g); 29 CFR 1630.4(b); Labor Code 21.005(c).

RMA must take positive efforts, if it receives assistance under the Individuals with Disabilities Education Act ("IDEA"), to employ and advance in employment qualified individuals with disabilities in programs assisted by the IDEA.

34 CFR 300.177(b).

b. Definition of Disability

"Disability" means a physical or mental impairment that substantially limits one or more of an individual's major life activities, a record of having such an impairment, or being regarded as having such an impairment.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

An individual meets the requirement of being "regarded as" having an impairment if the individual establishes that he or she has been subjected to a prohibited action because of an

actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. However, this provision does not apply to impairments that are transitory or minor. A transitory impairment is one with an actual or expected duration of six months or less.

42 U.S.C. 12102(1), (3), (4); 29 CFR 1630.2(g); Labor Code 21.002, 21.0021.

c. Mitigating Measures

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, low-vision devices, prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

The ameliorative effects of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity. Ordinary eyeglasses and contact lenses are lenses that are intended to fully correct visual acuity or to eliminate refractive error.

42 U.S.C. 12102(1), (3), (4); 29 CFR 1630.2(g), (j)(1); Labor Code 21.002, .0021.

d. Other Definitions

i. *Physical or Mental Impairment*

"Physical or mental impairment" means:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or
2. Any mental or psychological disorder, such as an intellectual disability (formerly termed "mental retardation"), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

29 CFR 1630.2(h).

ii. *Major Life Activities*

"Major life activities" include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. "Major life activities" also include the operation of major bodily functions, including functions of the immune system, normal cell

growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

42 U.S.C. 12102(2); 29 CFR 1630.2(i); Labor Code 21.002.

iii. *Qualified Individual*

"Qualified individual" means an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires. A written job description prepared before advertising or interviewing applicants for the job is evidence of the job's essential functions.

4*2 U.S.C. 12111(8); 29 CFR 1630.2(m)*.

e. Reasonable Accommodations

RMA shall make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability, unless RMA can demonstrate that the accommodation would impose an undue hardship on the operation of RMA.

42 U.S.C. 12112(b)(5); 29 CFR 1630.2(o)(4), .9; 29 U.S.C. 794; 34 CFR 104.11; Labor Code 21.128.

"Reasonable accommodation" includes:

1. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
2. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

42 U.S.C. 12111(9); 29 CFR 1630.2(o); 34 CFR 104.12(b).

"Undue hardship" means an action requiring significant difficulty or expense when considered in light of the nature and cost of the accommodation needed, overall financial resources of the affected facility and RMA, and other factors set out in law.

42 U.S.C. 12111(10); 29 CFR 1630.2(p); 34 CFR 104.12(c).

f. Discrimination Based on Relationship

RMA shall not exclude or deny equal jobs or benefits to, or otherwise discriminate against, a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a family, business, social, or other relationship or association.

42 U.S.C. 12112(b)(4); 29 CFR 1630.8; 34 CFR 104.11.

g. Illegal Drugs and Alcohol

The term "qualified individual with a disability" does not include any employee or applicant who is currently engaging in the illegal use of drugs, when RMA acts on the basis of such use.

i. *Drug Testing*

RMA is not prohibited from conducting drug testing of employees and applicants for the illegal use of drugs or making employment decisions based on the results of such tests.

42 U.S.C. 12114(c), (d); Labor Code 21.002(6)(A).

ii. *Alcohol Use*

The term "qualified individual with a disability" does not include an individual who is an alcoholic and whose current use of alcohol prevents the employee from performing the duties of his or her job or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.

42 U.S.C. 12114(a); 29 U.S.C. 705(20)(C); 29 CFR 1630.3(a); 28 CFR 35.104; Labor Code 21.002(6)(A).

h. Qualification Standards

i. *Direct Threat to Health or Safety*

As a qualification standard, RMA may require that an individual not pose a direct threat to the health or safety of other individuals in the workplace. "Direct threat" means a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation.

42 U.S.C. 12111(3); 29 CFR 1630.2(r); Labor Code 21.002(6)(B).

ii. *Vision Standards and Tests*

RMA shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by RMA, is shown to be job-related for the position in question and consistent with business necessity.

42 U.S.C. 12113(c); 29 CFR 1630.10(b); Labor Code 21.115(b).

iii. *Communicable Diseases*

RMA may refuse to assign or continue to assign an individual to a job involving food handling if the individual has an infectious or communicable disease that is transmitted to others through handling of food.

42 U.S.C. 12113(e); 29 U.S.C. 705(20)(D); 29 CFR 1630.16(e); Labor Code 21.002(6)(B).

i. Service Animals

RMA shall comply with the reasonable accommodation requirements of Title I of the ADA and/or Section 504 of the Rehabilitation Act with respect to service animals.

28 C.F.R. 35.140.

SEC. 6. BREASTFEEDING ACCOMMODATIONS IN THE WORKPLACE

RMA shall, subject to any undue hardship exceptions allowed under the law, provide:

1. A reasonable break time for an employee to express breast milk for such employee's nursing child for one year after the child's birth each time the employee has need to express the milk; and
2. A place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.

SEC. 7. NONDISCRIMINATION BASED ON PREGNANCY

RMA is fully committed to complying with the Pregnant Workers Fairness Act ("PWFA"), which allows qualified employees to receive reasonable accommodations to the known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation would impose an undue hardship on RMA.

RMA does not discriminate against qualified employees because they are pregnant.

SEC. 8. MILITARY SERVICE

RMA shall not deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of membership in a uniformed service, performance in a uniformed service, application for uniformed service, or obligation to a uniformed service. RMA shall not take adverse employment action or discriminate against any person who takes action to enforce protections afforded by the Uniformed Services Employment and Re-employment Rights Act (USERRA).

38 U.S.C. 4311.

SEC. 9. GENETIC NONDISCRIMINATION

a. Definitions

For the purpose of the Genetic Information Nondiscrimination Act (GINA), "genetic information" means information about:

1. An individual's genetic tests;
2. The genetic tests of that individual's family members;
3. The manifestation of disease or disorder in family members of the individual (family medical history);
4. An individual's request for or receipt of genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; or
5. The genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.

"Genetic information" ***does not include*** information about the sex or age of the individual, the sex or age of family members, or information about the race or ethnicity of the individual or family members that is not derived from a genetic test.

29 CFR 1635.3(c).

"Genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detects genotypes, mutations, or chromosomal changes. Genetic tests include, but are not limited to:

1. A test to determine whether someone has the BRCA1 or BRCA2 variant evidencing a predisposition to breast cancer, a test to determine whether someone has a genetic variant associated with hereditary nonpolyposis colon cancer, and a test for a genetic variant for Huntington's Disease;
2. Carrier screening for adults using genetic analysis to determine the risk of conditions such as cystic fibrosis, sickle cell anemia, spinal muscular atrophy, or fragile X syndrome in future offspring;
3. Amniocentesis and other evaluations used to determine the presence of genetic abnormalities in a fetus during pregnancy;
4. Newborn screening analysis that uses DNA, RNA, protein, or metabolite analysis to detect or indicate genotypes, mutations, or chromosomal changes, such as a test for PKU performed so that treatment can begin before a disease manifests;
5. Pre-implantation genetic diagnosis performed on embryos created using in vitro fertilization;
6. Pharmacogenetic tests that detect genotypes, mutations, or chromosomal changes that indicate how an individual will react to a drug or a particular dosage of a drug;

7. DNA testing to detect genetic markers that are associated with information about ancestry; and
8. DNA testing that reveals family relationships, such as paternity.

Examples of tests or procedures that are not genetic tests are:

1. An analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes;
2. A medical examination that tests for the presence of a virus that is not composed of human DNA, RNA, chromosomes, proteins, or metabolites;
3. A test for infectious and communicable diseases that may be transmitted through food handling;
4. Complete blood counts, cholesterol tests, and liver-function tests.

A test for the presence of alcohol or illegal drugs is not a genetic test. However, a test to determine whether an individual has a genetic predisposition for alcoholism or drug use is a genetic test.

29 CFR 1635.3(f).

b. Notices

The Superintendent or designee shall post in conspicuous places on school premises, where notices to employees and applicants for employment are customarily posted, a notice setting forth excerpts from or summaries of the pertinent provisions of the GINA regulation and information pertinent to the filing of a complaint.

29 CFR 1635.10(c).

c. Prohibited Practices

i. *Discrimination*

RMA shall not discriminate against an individual on the basis of genetic information in regard to hiring, discharge, compensation, or terms, conditions, or privileges of employment.

42 U.S.C. 2000ff-1(a); 29 CFR 1635.4.

ii. *Retaliation*

RMA shall not discriminate against an individual because the individual has opposed any act or practice made unlawful by GINA or because the individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under GINA.

41 U.S.C. 2000ff-6(f); 29 CFR 1635.7.

iii. *Acquisition*

Except as set forth below or otherwise provided in the GINA regulations, RMA shall not request, require, or purchase genetic information of an individual or family member of the individual.

42 U.S.C. 2000ff-1(b); 29 CFR 1635.8(a).

"Request" includes:

1. Conducting an Internet search on an individual in a way that is likely to result RMA's obtaining genetic information;
2. Actively listening to third-party conversations or searching an individual's personal effects for the purpose of obtaining genetic information; and
3. Making requests for information about an individual's current health status in a way that is likely to result in RMA's obtaining genetic information.

29 CFR 1635.8(a).

iv. *Disclosure*

Except as set forth in the GINA regulations, RMA shall not disclose the genetic information of an employee, regardless of how RMA obtained the information.

29 CFR 1635.9(b).

d. Manifested Condition

RMA shall not be considered to be in violation of the GINA regulations based on the use, acquisition, or disclosure of medical information about a manifested disease, disorder, or pathological condition of an employee, even if the disease, disorder, or pathological condition has or may have a genetic basis or component. However, genetic information about a manifested disease, disorder, or pathological condition is subject to the requirements and prohibitions of GINA.

29 CFR 1635.12.

"Manifestation" or "manifested" means, with respect to a disease, disorder, or pathological condition, that an individual has been or could reasonably be diagnosed with the disease, disorder, or pathological condition by a health-care professional with appropriate training and expertise in the field of medicine involved. A disease, disorder, or pathological condition is not manifested if the diagnosis is based principally on genetic information.

29 CFR 1635.3(g).

e. Inadvertent Acquisition

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where RMA inadvertently requests or requires genetic information of the individual or family member of the individual. This exception applies in, but is not necessarily limited to, situations where a manager or supervisor learns genetic information about an individual by:

1. Overhearing a conversation between the individual and others;
2. Receiving the information during a casual conversation, including in response to an ordinary expression of concern that is the subject of the conversation. This exception does not apply where a supervisor follows up with questions that are probing in nature, such as whether other family members have the condition or whether the individual has been tested for the condition, because the supervisor or official should know that these questions are likely to result in the acquisition of genetic information;
3. Receiving unsolicited information (e.g., where a supervisor receives an unsolicited e-mail about the health of an employee's family member from a co-worker); or
4. Accessing a social media platform that the supervisor was given permission to access by the creator of the profile at issue (e.g., a supervisor and employee are connected on a social networking site and the employee provides family medical history on his page).

29 CFR 1635.8(b)(1)(ii).

f. Requests for Medical Information

If RMA acquires genetic information in response to a lawful request for medical information, the acquisition of genetic information will not generally be considered inadvertent unless RMA directs the individual and/or health-care provider from whom it requested medical information not to provide genetic information.

29 CFR 1635.8(b)(1)(i)(A).

Situations involving lawful requests for medical information include, for example:

1. Requests for documentation to support a request for reasonable accommodation under federal, state, or local law where the disability and/or need for accommodation is not obvious, the documentation is no more than is sufficient to establish that an individual has a disability and needs a reasonable accommodation, and the documentation relates only to the impairment that the individual claims to be a disability that requires reasonable accommodation;
2. Requests for medical information as required, authorized, or permitted by federal, state, or local law, such as where an employee requests leave under the Family and Medical Leave Act ("FMLA") to attend to the employee's own serious health condition or where an employee complies with the FMLA's employee return to work certification requirements; or
3. Requests for documentation to support leave that is not governed by federal, state, or local laws requiring leave, as long as the documentation required to support the request

otherwise complies with the requirements of the ADA and other laws limiting RMA's access to medical information.

29 CFR 1635.8(b)(1)(i)(D).

i. *Safe Harbor*

Any receipt of genetic information in response to a request for medical information shall be deemed inadvertent if RMA uses language such as the following:

"The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. 'Genetic information,' as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services."

RMA's failure to give such a notice or to use this or similar language will not prevent RMA from establishing that a particular receipt of genetic information was inadvertent if the request for medical information was not likely to result in RMA's obtaining genetic information (for example, where an overly broad response is received in response to a tailored request for medical information).

29 CFR 1635.8(b)(1)(i)(B), (C).

g. Employment Examinations

The prohibition on acquisition of genetic information applies to medical examinations related to employment. RMA shall tell health-care providers not to collect genetic information, including family medical history, as part of a medical examination intended to determine the ability to perform a job.

29 CFR 1635.8(d).

i. Remedial Measures

RMA shall take additional reasonable measures within its control if it learns that genetic information is being requested or required in medical examinations related to employment. Such reasonable measures may depend on the facts and circumstances under which a request for genetic information was made, and may include no longer using the services of a health-care professional who continues to request or require genetic information during medical examinations after being informed not to do so.

29 CFR 1635.8(d).

h. Health or Genetic Services

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where RMA offers health or genetic services, including services offered as part of a voluntary wellness program, if the conditions at 29 CFR 1635.8(b)(2) are met.

RMA may not offer a financial inducement for individuals to provide genetic information but may offer financial inducements for completion of health risk assessments that include questions about family medical history or other genetic information. RMA shall make clear, in language reasonably likely to be understood by those completing the health risk assessment, that the inducement will be made available whether or not the participant answers questions regarding genetic information.

RMA may offer financial inducements to encourage individuals who have voluntarily provided genetic information (e.g., family medical history) that indicates that they are at increased risk of acquiring a health condition in the future to participate in disease management programs or other programs that promote healthy lifestyles, and/or to meet particular health goals as part of a health or genetic service. However, RMA must also offer these programs to individuals with current health conditions and/or to individuals whose lifestyle choices put them at increased risk of developing a condition.

29 CFR 1635.8(b)(2).

i. Leave Requests

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where RMA requests family medical history to comply with the certification provisions of the FMLA or state or local family and medical leave laws, or pursuant to a policy (even in the absence of requirements of federal, state, or local leave laws) that permits the use of leave to care for a sick family member and that requires all employees to provide information about the health condition of the family member to substantiate the need for leave.

29 CFR 1635.8(b)(3).

j. Publicly Available Information

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where RMA acquires genetic information from documents that are commercially and publicly available for review or purchase, including newspapers, magazines, periodicals, or books, or through electronic media, such as information communicated through television, movies, or the Internet, except that this exception does not apply to:

1. Medical databases, court records, or research databases available to scientists on a restricted basis;
2. Genetic information acquired through sources with limited access, such as social networking sites and other media sources which require access permission from a specific individual or where access is conditioned on membership in a particular group, unless RMA can show that access is routinely granted to all who request it;
3. Genetic information obtained through commercially and publicly available sources if RMA sought access to those sources with the intent of obtaining genetic information; or
4. Genetic information obtained through media sources, whether or not commercially and publicly available, if RMA is likely to acquire genetic information by accessing those sources, such as Web sites and online discussion groups that focus on issues such as genetic testing of individuals and genetic discrimination.

29 CFR 1635.8(b)(4).

k. Workplace Monitoring

The general prohibition against requesting, requiring, or purchasing genetic information does not apply where RMA acquires genetic information for use in the genetic monitoring of the biological effects of toxic substances in the workplace. Such monitoring must meet the criteria at

29 CFR 1635.8(b)(5). *29 CFR 1635.8(b)(5)*

l. Inquiries Made of Family Members

RMA does not violate the GINA regulations when it requests, requires, or purchases information about a manifested disease, disorder, or pathological condition of an employee whose family member is also employed by RMA or who is receiving health or genetic services on a voluntary basis. For example, RMA does not violate the GINA regulations by asking someone whose sister also works for RMA to take a post-offer medical examination that does not include requests for genetic information.

29 CFR 1635.8(c).

m. Confidentiality

The Superintendent or designee shall maintain genetic information in writing about an employee on forms and in medical files (including where the information exists in electronic forms and files) that are separate from personnel files. RMA must treat such information as a confidential medical record. RMA may maintain genetic information about an employee in the same file in which it maintains confidential medical information under the ADA.

Genetic information placed in personnel files before November 21, 2009, need not be removed. RMA will not be liable under the GINA regulations for the mere existence of the information in the file. However, the prohibitions on use and disclosure of genetic information apply to all

genetic information that meets the statutory definition, including genetic information requested, required, or purchased before November 21, 2009.

Genetic information that RMA receives orally need not be reduced to writing but may not be disclosed, except as permitted by 29 CFR part 1635.

Genetic information that RMA acquires through sources that are commercially and publicly available, as provided by 29 CFR 1635.8(b)(4), is not considered confidential genetic information but may not be used to discriminate against an individual.

29 CFR 1635.9(a).

n. Disclosure Permitted

RMA may disclose genetic information, regardless of how such information was obtained (except for genetic information acquired through commercially and publicly available sources), as follows:

1. To the employee (or family member if the family member is receiving genetic services) about whom the information pertains upon receipt of the employee's written request;
2. To an occupational or other health researcher if the research is conducted in compliance with the regulations and protections at 45 CFR part 46;
3. In response to an order of a court. RMA may disclose only the genetic information expressly authorized by the order. If the order was secured without the knowledge of the employee to whom the information refers, RMA shall inform the employee of the order and any genetic information that was disclosed pursuant to the order;
4. To government officials investigating compliance with Title II of GINA if the information is relevant to the investigation;
5. To the extent the information is disclosed in support of an employee's compliance with the certification provisions of the FMLA or certification requirements under state family and medical leave laws; or
6. To a federal, state, or local public health agency, only with regard to information about the manifestation of a disease or disorder that concerns a contagious disease that presents an imminent hazard of death or life-threatening illness, provided that the individual whose family member is the subject of the disclosure is notified of such disclosure.

29 CFR 1635.9(b).

o. Relationship to HIPAA Privacy Regulations

The GINA regulations do not apply to the use or disclosure of genetic information that is protected health information subject to regulation under the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

29 CFR 1635.9(c).

SEC. 10. BANKRUPTCY DISCRIMINATION

RMA shall not terminate the employment of, or discriminate with respect to employment against, an individual who is or has been a debtor under federal bankruptcy laws, or an individual associated with such debtor or bankrupt, solely because such debtor or bankrupt:

1. Is or has been a debtor under federal bankruptcy laws;
2. Has been insolvent before the commencement of a case under federal bankruptcy laws or during the case but before the grant or denial of a discharge; or
3. Has not paid a debt that is dischargeable in a case under federal bankruptcy laws.

11 U.S.C. 525(b).

SEC. 11. GRIEVANCE POLICIES

The Superintendent shall provide grievance procedure(s) concerning the following:

a. Section 504

That incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act.

34 CFR 104.7(b), 104.11.

b. Americans with Disabilities Act

Providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the ADA.

28 CFR 35.107, 35.140.

c. Title IX

Providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX.

34 CFR 106.8(c); North Haven Board of Education v. Bell, 456 U.S. 512 (1982).

SEC. 12. COMPLIANCE COORDINATOR

RMA shall designate at least one employee to coordinate its efforts to comply with Title IX, Section 504, the Age Act, and the ADA. The Superintendent shall notify all employees of the name, office address, and telephone number of the employee(s) so designated.

34 CFR 104.7(b), 104.11; 28 CFR 35.107, 35.140; 34 CFR 106.8(b).

PG-4.102 NONDISCRIMINATION POLICY

SEC. 1. NONDISCRIMINATION STATEMENT

RMA strictly prohibits discrimination, including harassment, against an employee on the basis of race, color, religion, gender, national origin, age, disability, genetic information, or any other legally protected classification. Retaliation against anyone involved in the complaint process is also a violation of RMA policy.

For purposes of this policy, "employee" includes current employees, volunteers and applicants for employment.

SEC. 2. GENERAL NONDISCRIMINATION POLICY

a) Prohibited Conduct

In this policy, the term "prohibited conduct" includes discrimination, harassment, and/or retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

i. *Prohibited Discrimination*

Discrimination is defined as conduct directed at an employee on the basis of race, color, religion, gender, national origin, age, disability, genetic information or any other basis prohibited by law, that adversely affects his or her employment.

ii. *Prohibited Harassment*

Prohibited harassment of an employee is defined as unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information where:

1. Enduring the offensive conduct becomes a condition of continued employment; or
2. The conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile or abusive.

Harassment may also occur when unwelcome conduct based on an employee's protected characteristic is so severe, persistent, or pervasive that the conduct:

1. Has the purpose or effect of unreasonably interfering with the employee's work performance;
2. Creates an intimidating, threatening, hostile, or offensive work environment; or
3. Otherwise adversely affects the employee's performance, environment, or employment opportunities.

Prohibited harassment may include, but is not limited to, offensive or derogatory language directed at another person's religious beliefs or practices, accent, skin color, gender identity, or

need for workplace accommodation; threatening or intimidating conduct; offensive jokes, name calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other stereotypes; or other types of aggressive conduct such as theft or damage to property.

iii. *Prohibited Gender-Based Harassment*

Gender-based harassment includes physical, verbal, or nonverbal conduct based on an employee's gender, the employee's expression of characteristics perceived as stereotypical for the employee's gender, or the employee's failure to conform to stereotypical notions of femininity or masculinity.

Examples of gender-based harassment, regardless of the employee's or alleged harasser's actual or perceived gender, may include offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; threatening or intimidating conduct; or other kinds of aggressive conduct such as theft or damage to property.

iv. *Prohibited Retaliation*

RMA expressly prohibits retaliation against an employee who makes a claim alleging to have experienced discrimination or harassment, or an employee who, in good faith, makes a report, serves as a witness, or otherwise participates in an investigation.

Examples of retaliation may include termination, refusal to hire, demotion, and denial of promotion. Retaliation may also include threats, unjustified negative evaluations, unjustified negative references, or increased surveillance.

v. *False Claims*

An employee who intentionally makes a false claim, offers false statements, or refuses to cooperate or participate in an investigation regarding discrimination or harassment is subject to discipline, up to and including termination of employment.

b) Reporting Prohibited Conduct (Non-Sexual Harassment)

An employee who believes that he or she has experienced prohibited conduct, or that another employee has experienced prohibited conduct, should immediately report the alleged conduct to the Principal or his or her supervisor, or to one of the school officials identified below.

In this policy, "prohibited conduct" includes discrimination, harassment, and/or retaliation, even if the behavior does not rise to the level of unlawful conduct.

The reporting procedures in this Section 2 will apply to all allegations of prohibited conduct other than allegations of harassment prohibited by Title IX. For allegations of sex-based harassment that, if proved, would meet the definition of sexual harassment under Title IX (including sexual harassment), see the procedures below at Section 3, Sexual Harassment Prohibited – Title IX Policy.

i. *Title IX Coordinator*

The Title IX Coordinator is responsible for coordinating RMA's efforts to comply with its responsibilities under Title IX with respect to discrimination based on sex, including sexual harassment. RMA designates the following person(s) to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended:

Christina Averill
Position: HR Coordinator
Address: 401 E. Sonterra Blvd. Suite 375, San Antonio, Texas 78258
Telephone: (830) 557-6181 ext. 3
Email address: TitleIXEmployeeCoord@rma-tx.org

ii. *ADA/Section 504 Coordinator*

RMA designates the following person to coordinate its efforts to comply with legal requirements concerning discrimination on the basis of disability:

Dr. Heidi Lambert
Position: Director of Special Populations
Address: 401 E. Sonterra Blvd. Suite 375, San Antonio, Texas 78258
Telephone: (346) 522-8685
email address: ADA/Section504Coordinator@rma-tx.org

iii. *Title VII/Age Coordinator*

RMA designates the following person to coordinate its efforts to comply with legal requirements concerning discrimination on the basis of race, color, national origin, and age:

Christina Averill
Position: HR Coordinator
Address: 401 E. Sonterra Blvd. Suite 375, San Antonio, Texas 78258
Telephone: (830) 557-6181 ext. 3
email address: hr@rma-tx.org

iv. *All Other Complaints*

Reports concerning prohibited conduct against the Title IX Coordinator, ADA/Section 504 Coordinator, and/or Title VII/Age Coordinator may be made to the Superintendent or designee. Reports concerning prohibited conduct against the Superintendent or designee may be directed to the Board.

c) Timely Reporting

Employees shall report prohibited conduct as soon as possible after the alleged act or knowledge of the alleged act.

Any supervisor who receives a report of prohibited conduct shall immediately inform the appropriate RMA official identified above.

d) Investigating Reports of Prohibited Conduct

RMA may request, but not insist upon, a written report describing any alleged prohibited conduct. If a report is made orally, the RMA official receiving the report shall reduce the report to writing.

After receiving a report or notice of a report, the appropriate Compliance Coordinator shall determine if the allegations, if proven, would constitute prohibited conduct under this policy. If so, the Compliance Coordinator shall immediately authorize or conduct an investigation, regardless of whether a criminal or regulatory investigation concerning the allegations is pending. The investigation may be conducted by the Compliance Coordinator or designee, or by a third party authorized by RMA, such as an attorney. The employee's Principal or supervisor shall be notified of the investigation, if appropriate.

The investigation may consist of personal interviews of individuals with knowledge of the allegations, including the person making the report, and the person against whom the report is filed. The investigation may also include consideration of documents or other information concerning the allegations.

If appropriate, RMA shall take prompt action to prevent prohibited conduct from occurring during the course of the investigation.

i. *Concluding the Investigation*

Investigations of prohibited conduct should be completed as soon as reasonably possible and appropriate under the circumstances. The investigator shall prepare a written report of the investigation, and provide the report to the RMA official overseeing the investigation.

ii. *School Action*

If an investigation indicates that prohibited conduct occurred, RMA shall promptly take appropriate disciplinary or corrective action to address the conduct.

RMA may also take action following an investigation, even if the alleged conduct did not rise to the level of prohibited or unlawful conduct.

iii. *Confidentiality*

RMA shall respect the privacy of all individuals involved in a report or investigation of prohibited conduct. Limited disclosures may be necessary.

iv. *Appeal*

A complainant who is dissatisfied with the outcome of an investigation may appeal through Board Policy PG-XX (Employee Complaints and Grievances – General).

e) Records Retention

Copies of reports alleging prohibited conduct, investigation reports, and other related records shall be maintained for at least three years.

SEC. 3. SEXUAL HARASSMENT PROHIBITED – TITLE IX POLICY

a) Definitions for Title IX Terms

i. *Actual Knowledge*

"Actual knowledge" means notice of sexual harassment or allegations of sexual harassment to RMA's Title IX Coordinator or any RMA official who has authority to institute corrective measures on behalf of RMA, or to any employee of an elementary and secondary school. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of RMA with actual knowledge is the respondent (as that term is defined below). The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of RMA. "Notice" as used in this definition includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator.

34 C.F.R. 106.30(a).

ii. *Complainant*

"Complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

34 C.F.R. 106.30(a).

iii. *Consent*

"Consent" is not currently defined by the Title IX regulations, nor do the regulations require RMA to adopt a particular definition of consent with respect to sexual assault.

34 C.F.R. 106.30(a).

iv. *Deliberate Indifference Standard*

If RMA has actual knowledge of sexual harassment in an education program or activity of RMA against a person in the United States, it must respond promptly in a manner that is not deliberately indifferent. RMA is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances. *34 C.F.R. 106.44*.

v. *Education Program or Activity*

For purposes of this Title IX policy, "education program or activity" includes locations, events, or circumstances over which RMA exercised substantial control over both the respondent and the context in which sexual harassment occurs.

34 C.F.R. 106.44.

vi. *Formal Complaint*

"Formal complaint" means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that RMA investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in RMA's education program or activity. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by email, by using the contact information for the Title IX Coordinator provided by RMA, and by any additional method designated by RMA. As used in this definition, the term "document filed by a complainant" means a document or electronic submission (such as by email or through an online portal provided for this purpose by RMA) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party to the Title IX formal complaint, and must comply with the requirements of the Title IX formal process, including the informal resolution process.

34 C.F.R. 106.30(a).

vii. *Respondent*

"Respondent" means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

34 C.F.R. 106.30(a).

viii. *Sexual Harassment*

"Sexual harassment" means conduct on the basis of sex that satisfies one or more of the following:

An employee of RMA conditioning the provision of an aid, benefit, or service of RMA on an individual's participation in unwelcome sexual conduct;
Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to RMA's education program or activity; or

"Sexual assault" as defined in 20 U.S.C. 1091(f)(6)(A)(v); "dating violence" as defined in 34 U.S.C. 12291(a)(10); "domestic violence" as defined in 34 U.S.C. 12291(a)(8); or "stalking" as defined in 34 U.S.C. 12291(a)(30).

34 C.F.R. 106.30(a).

ix. *Supportive Measures*

"Supportive measures" means non-disciplinary, nonpunitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to RMA's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or RMA's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. RMA must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair RMA's ability to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

34 C.F.R. 106.30(a).

b) Requirement to Designate Title IX Coordinator

RMA must designate at least one employee as a Title IX Coordinator to coordinate RMA's efforts to comply with its requirements under Title IX.

c) Notification of Title IX Policy

RMA must notify applicants for admission and employment, students, parents or legal guardians of students, and all professional organizations holding professional agreements with RMA of the name or title, office address, email address, and telephone number of the employee or employees designated as the Title IX Coordinator.

RMA must also notify the individuals noted above that RMA does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required under Title IX not to discriminate in such a manner. The notification must also state that the requirement not to discriminate in the education program or activity extends to admission and employment, and that inquiries about the application of Title IX to RMA may be referred to the designated Title IX Coordinator, to the assistant secretary for civil rights of the Department of Education, or both.

34 C.F.R. 106.8(a), (b)(1).

d) Handbook Information and Website Postings

RMA must prominently display the contact information required to be listed for the Title IX Coordinator and the nondiscrimination policy described in "Notification of Title IX Policy," above, on the RMA website, if any, and in the Employee Handbook and Student / Parent Handbook.

RMA may not use or distribute a publication stating that RMA treats applicants, students, or employees differently on the basis of sex except when such treatment is permitted by Title IX.

34 C.F.R. 106.8(b)(2).

e) Reporting Sex Discrimination / Sexual Harassment

Any person may report sex discrimination, including sexual harassment, whether or not the reporting person is the person alleged to be the victim of conduct that may constitute sex discrimination or sexual harassment. Reports may be made in person, by mail, by telephone, or by email through the contact information listed for RMA's Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Reports may be made at any time (including during nonbusiness hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator.

34 C.F.R. 106.8(a).

f) Complaint Procedures

RMA must adopt and publish procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by Title IX, and a formal Title IX complaint process that complies with applicable federal regulations.

RMA must provide notice to the individuals identified in Sec. 3(c) above of the school's procedures and Title IX formal complaint process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how RMA will respond.

The requirements of this provision apply only to sex discrimination occurring against a person in the United States.

34 C.F.R. 106.8(c)-(d).

g) Response by Title IX Coordinator

The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, , inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

i. <u>Required Supportive Measures</u>

RMA's response must treat complainants and respondents equitably by offering supportive measures and by following a grievance process that complies with the Title IX regulations (*see* Process for Formal Title IX Complaint, Sec. 3(h) below) before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.

34 C.F.R. 106.44(a).

ii. Response to Formal Complaint

In response to a formal complaint, RMA must follow a process that complies with the Title IX regulations (*see* Process for Formal Title IX Complaint, Sec. 3(h) below).

34 C.F.R. 106.44(b)(1).

iii. Emergency Removals

RMA is not precluded from removing a respondent from its education program or activity on an emergency basis, provided that RMA:

Undertakes an individualized safety and risk analysis;

1. Determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal; and
2. Provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

This may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

34 .F.R. 106.44(c).

iv. Administrative Leave

RMA is not prohibited from placing a nonstudent employee respondent on administrative leave during the pendency of a Title IX formal complaint. This does not modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

34 C.F.R. 106.44(d).

h) Process for Title IX Formal Complaint

For purposes of addressing formal complaints of sexual harassment, RMA's process must comply with the requirements listed in this section. Any provisions, rules, or practices other than those required by the Title IX regulations or this policy that RMA adopts as part of its process for handling formal complaints of sexual harassment must apply equally to both parties.

34 C.F.R. 106.45(b).

RMA's Title IX formal complaint process must:

1. Treat complainants and respondents equally by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a process that complies with the Title IX regulations before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. Remedies must be designed to restore or preserve equal access to RMA's education program or activity. Such remedies may include the same individualized services described as supportive measures; however, remedies need not be non-disciplinary or nonpunitive and need not avoid burdening the respondent.
2. Require an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness.
3. Require that any individual designated by RMA as a Title IX Coordinator, investigator, decision-maker, or any person designated by RMA to facilitate an informal resolution process, not to have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. RMA must ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process receive training on the definition of sexual harassment, the scope of RMA's education program or activity, how to conduct an investigation and Title IX formal complaint process (including hearings, appeals, and informal resolution processes, as applicable), and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. RMA must ensure that decision-makers receive training on any technology to be used at a live hearing, if any, and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. RMA must also ensure that investigators receive training on relevance to create an investigative report that fairly summarizes relevant evidence. Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.
4. Include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Title IX formal complaint process.
5. Include reasonably prompt timeframes for concluding the grievance process, including reasonably prompt timeframes for filing and resolving appeals and informal resolution processes if RMA offers informal resolution processes, and a process that allows for the temporary delay of the Title IX formal complaint process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

6. Describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that RMA may implement following any determination of responsibility.
7. State whether the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard or the clear and convincing evidence standard, apply the same standard of evidence for formal complaints against students as for formal complaints against employees, including faculty, and apply the same standard of evidence to all formal complaints of sexual harassment.
8. Include the procedures and permissible bases for the complainant and respondent to appeal.
9. Describe the range of supportive measures available to complainants and respondents.
10. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally-recognized privilege, unless the person holding such privilege has waived the privilege.

34 .F.R. 106.45(b)(1).

i. Notice of Allegations

Upon receipt of a formal complaint, RMA must provide the following written notice to the parties who are known:

1. Notice of RMA's Title IX formal complaint process, including any informal resolution process.
2. Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include:
    a. The identities of the parties involved in the incident, if known;
    b. The conduct allegedly constituting sexual harassment; and
    c. The date and location of the alleged incident, if known.

The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Title IX formal complaint process. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney and may inspect and review evidence. The written notice must inform the parties of any provision in RMA's Code of Conduct that prohibits knowingly making false statements or knowingly submitting false information during the Title IX formal complaint process.

If, in the course of an investigation, RMA decides to investigate allegations about the complainant or respondent that are not included in the notice of allegations, RMA must provide notice of the additional allegations to the parties whose identities are known.

34 .F.R. 106.45(b)(2).

ii. Dismissal of Formal Complaint

RMA must investigate the allegations in a formal complaint.

If the conduct alleged in the formal complaint would not constitute sexual harassment even if proved, did not occur in RMA's education program or activity, or did not occur against a person in the United States, then RMA must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX; such a dismissal does not preclude action under another provision of RMA's Code of Conduct.

RMA may dismiss the formal complaint or any allegations therein if, at any time during the investigation or hearing (if applicable):

A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
The respondent is no longer enrolled or employed by RMA; or
Specific circumstances prevent RMA from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal of a formal complaint, RMA must promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties.

34 .F.R. 106.45(b)(3).

iii. Consolidation of Formal Complaints

RMA may consolidate formal complaints as to allegations of sexual harassment against more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a Title IX formal complaint process involves more than one complainant or more than one respondent, references in this section to the singular "party," "complainant," or "respondent" include the plural, as applicable.

34 .F.R. 106.45(b)(4).

iv. Investigating Formal Complaints

When investigating a formal complaint and throughout the Title IX formal complaint process, RMA must:

1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on RMA and not on the parties, provided that RMA cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless RMA obtains that party's voluntary, written

consent to do so for a Title IX formal complaint. If a party is not an "eligible student," as defined in the FERPA regulations, RMA must obtain the voluntary, written consent of a "parent," as defined in the FERPA regulations.

2. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
3. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
4. Provide the parties with the same opportunities to have others present during any Title IX formal complaint proceeding, including the opportunity to be accompanied to any related or proceeding by the advisor of their choice, who may be, but is not required to be, and attorney, and not limit the choice or presence of the advisor for either the complainant or respondent in any meeting or Title IX formal complaint proceeding; however, RMA may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings (if applicable), investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
6. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which RMA does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, RMA must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least ten days to submit a written response, which the investigator will consider prior to completion of the investigative report. RMA must make all such evidence subject to the parties' inspection and review available at any hearing (if applicable) to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
7. Create an investigative report that fairly summarizes relevant evidence and, at least ten days prior to a hearing (if a hearing is required or otherwise provided) or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

34 .F.R. 106.45(b)(5).

v. <u>Hearings</u>

RMA's Title IX formal complaint process may, but need not, provide for a hearing. With or without a hearing, after RMA has sent to the investigate report to the parties and before reaching a determination regarding responsibility, the decision-maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. With or without a hearing, questions and evidence about the

complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

34 .F.R. 106.45(b)(6)(ii).

vi. Determination Regarding Responsibility

The decision-maker(s), who cannot be the same person(s) as the Title IX Coordinator or the investigator(s), must issue a written determination regarding responsibility. To reach this determination, RMA must apply the same standard of evidence described at "Process for Title IX Formal Complaint, Sec. 3(h) above. The written determination must include:

Identification of the allegations potentially constituting sexual harassment.
A description of the procedural steps taken from receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held (if any).
Findings of fact supporting the determination.
Conclusions regarding the application of RMA's Code of Conduct to the facts.
A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions RMA imposes on the respondent, and whether remedies designed to restore or preserve equal access to RMA's education program or activity will be provided by RMA to the complainant.
RMA's procedures and permissible bases for the complainant and respondent to appeal.

RMA must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that RMA provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

34 C.F.R. 106.45(b)(7)(i)-(iii).

The Title IX Coordinator is responsible for effective implementation of any remedies identified in a determination regarding responsibility.

34 .F.R. 106.45(b)(7)(iv).

vii. Appeals

RMA must offer both parties an appeal from a determination regarding responsibility, and from RMA's dismissal of a formal complaint or any allegations therein, on the following bases:

1. Procedural irregularity that affected the outcome of the matter;

2. New evidence that was not reasonably available at the time the determination on responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

RMA may offer an appeal equally to both parties on additional bases.

As to all appeals, RMA must:

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
3. Ensure that the decision-maker(s) for the appeal complies with standards regarding conflict of interest and bias found in the Title IX regulations (as discussed in "Process for Formal Title IX Complaint," Sec. 3(h) above);
4. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
5. Issue a written decision describing the result of the appeal and the rationale for the result; and
6. Provide the written decision simultaneously to both parties.

34 .F.R. 106.45(b)(8).

viii. <u>Informal Resolution</u>

RMA may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with Title IX. Similarly, RMA may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility, RMA may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication.

With respect to informal resolution, RMA must provide written notice to the parties disclosing:

1. The allegations;
2. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
3. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

RMA also must obtain the parties' voluntary, written consent to the informal resolution process.

RMA cannot offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

34 .F.R. 106.45(b)(9).

ix. <u>Recordkeeping</u>

RMA must maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to RMA's education program or activity;
2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and
4. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. RMA must make these training materials publicly available on its website or, if RMA does not maintain a website, RMA must make these materials available upon request for inspection by members of the public.

For each response required under "Response by Title IX Coordinator," Sec. 3(g) above, RMA must create and maintain for a period of seven years records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, RMA must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to RMA's education program or activity.

If RMA does not provide a complainant with supportive measures, RMA must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit RMA in the future from providing additional explanations or detailing additional measures taken.

34 .F.R. 106.45(b)(10).

i) Retaliation Prohibited

Neither RMA nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX.

Intimidation, threats, coercion, or discrimination, including charges against an individual for Code of Conduct violations that do not involve sex discrimination or sexual harassment, but arise

out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

Complaints alleging retaliation may be filed according to the "Process for Formal Title IX Complaint," Sec. 3(h) above.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited by Title IX.

Charging an individual with a Code of Conduct violation for making a materially false statement in bad faith in the course of a Title IX formal complaint proceeding does not constitute retaliation prohibited by Title IX provided, however, that a determination regarding responsibility alone is not sufficient to conclude that any party made a materially false statement in bad faith.

34 C.F.R. 106.71(a)-(b).

j) Confidentiality

RMA must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and nay witness, except as may be permitted by the Family Educational Rights and Privacy Act ("FERPA") statute, 20 U.S.C. 1232g, or FERPA regulations, 34 C.F.R. part 99, or as required by law, or to carry out the purposes of the Title IX regulations at 34 C.F.R. part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

34 C.F.R. 106.71(a).

k) Relationship to General Non-Discrimination Policy

The formal complaint investigation and resolution process outlined above in Sec. 3(h) applies only to formal complaints alleging sexual harassment under Title IX, but not to complaints alleging sex discrimination that do not constitute sexual harassment. Complaints of sex discrimination that do not constitute sexual harassment may be filed with the Title IX Coordinator and will be handled under RMA's general process for receiving reports of suspected discrimination and harassment, as outlined in Section 2 above.

SEC. 4. DISTRIBUTION OF POLICY

The Superintendent or designee shall ensure that this policy and accompanying procedures are made available to all employees through the RMA Employee Handbook.

SEC. 5. LIABILITY FOR HARASSMENT

RMA accepts no liability for harassment of any student or employee by another employee. Any RMA employee who is found to have engaged in prohibited conduct is subject to disciplinary action, up to and including termination.

RMA does not consider conduct in violation of this policy to be within the course and scope of employment or the direct consequences of the discharge of one's duties. Accordingly, to the extent permitted by law, RMA reserves the right not to provide a defense or pay damages assessed against employees for conduct in violation of this policy.

PG-4.103 WHISTLEBLOWER PROTECTION

SEC. 1. DEFINITIONS

"Employee" means an employee or appointed officer who is paid to perform services for RMA. This definition does not include independent contractors.

"Law" means a state or federal statute, an ordinance of a local governmental entity, or a rule adopted under a statute or ordinance.

"Personnel action" means an action that affects an employee's compensation, promotion, demotion, transfer, work assignment, or performance evaluation.

A "good faith" belief that a violation of law occurred means that:

1. An employee believed the conduct reported was a violation of law; and
2. The employee's belief was reasonable in light of the employee's experience and training.

A "good faith" belief that a law enforcement authority is an appropriate one means:

1. The employee believed the governmental entity was authorized to
2. Regulate under or enforce the law alleged to be violated in the report; or
3. Investigate or prosecute a violation of criminal law; and
4. The employee's belief was reasonable in light of the employee's experience and training.

SEC. 2. WHISTLEBLOWER COMPLAINTS

An employee who alleges a violation of whistleblower protection may take legal action against RMA as described in Chapter 554 of the Texas Government Code. Before taking such action, an employee must initiate a grievance under PG-XX (Employee Complaints and Grievances - General).

The employee must invoke the grievance process under PG- XX no later than the 90th day after the date on which the alleged suspension, termination, or other adverse employment action occurred or was discovered by the employee through reasonable diligence. RMA may shorten the timelines outlined in PG-XX (Employee Complaints and Grievances - General) in order to

allow the Board to make a final decision concerning the grievance within 60 days of initiation of the grievance.

If the Board does not render a final decision before the 61st day after grievance procedures are initiated, the employee may elect to:

1. Exhaust the grievance process under PG-XX (Employee Complaints and Grievances - General), in which case the employee must file legal action not later than the 30th day after the date those procedures are exhausted to obtain relief under Chapter 554 of the Texas Government Code; or
2. Terminate the grievance process under PG-XX (Employee Complaints and Grievances - General) and file legal action within the timelines set by sections 554.005 and 554.006 of the Texas Government Code.

Gov't Code 554.005, .006.

SEC. 3. WHISTLEBLOWER PROTECTIONS

Neither the Board nor its agents shall suspend or terminate the employment of, or take other adverse personnel action against, an employee who in good faith reports a violation of law by RMA or another RMA employee to an appropriate law enforcement authority.

Gov't Code 554.002.

SEC. 4. NOTICE OF RIGHTS

RMA shall inform employees of their rights regarding whistleblower protection by posting a sign in a prominent location in the workplace.

Gov't Code 554.009.

PG-4.201 EMPLOYMENT PRACTICES

SEC. 1. PERSONNEL DUTIES

The Superintendent or designee shall define the qualifications, duties, and responsibilities of all positions and shall ensure that job descriptions are current and accessible to employees and supervisors.

SEC. 2. POSTING VACANCIES

The Superintendent or designee shall establish guidelines for advertising employment opportunities and posting notices of vacancies, which shall advance the commitment of RMA to equal opportunity employment and to recruit well-qualified candidates. Current RMA employees may apply for any vacancy for which they qualify.

SEC. 3. APPLICATIONS

All applicants shall complete the application form supplied by RMA. Information on applications shall be confirmed before hiring or as soon as possible thereafter.

SEC. 4. NEW HIRES

a) I-9 Forms

The Superintendent or designee shall ensure that an employee properly completes Section 1 ("Employee Information and Verification'') on Form I-9 at the time of hire.

RMA must verify employment eligibility, pursuant to the Immigration Reform and Control Act, and complete Form I-9 by the following dates:

1. Within three business days of hiring. If RMA hires an individual for employment for a duration of less than three business days, the Superintendent or designee must verify employment at the time of hire.

2. RMA shall not be deemed to have hired an individual if the individual is continuing in his or her employment and has a reasonable expectation of employment at all times.

1. When RMA rehires an individual, the Superintendent or designee may, in lieu of completing a new I-9, inspect a previously completed I-9 executed within three years of the date of rehire, to determine whether the individual is still eligible to work.
2. For an individual whose employment authorization expires, not later than the date of expiration.

8 C.F.R. 274a.2(b)(1)(ii,) (iii), (vii), (viii).

b) New Hire Reporting

RMA shall furnish to the Directory of New Hires (Texas Attorney General's Office) a report that contains the name, address, and social security number of each newly hired employee. The report shall also contain RMA's name, address, and employer identification number.

RMA may also provide, at its option, the employee's date of hire, date of birth, expected salary or wages, and RMA's payroll address for mailing of notice to withhold child support.

RMA shall report new hire information on a Form W-4 or an equivalent form, by first class mail, telephonically, electronically, or by magnetic media, as determined by RMA and in a format acceptable to the attorney general.

c) Deadline

New hire reports are due:

1. Not later than 20 calendar days after the date RMA hires the employee; or
2. In the case of RMA transmitting reports magnetically or electronically, by two monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart.

New hire reports shall be considered timely if postmarked by the due date or, if filed electronically, upon receipt by the agency.

42 U.S.C. 653a(b), (c); Family Code 234.101–.105; 1 TAC 55, Subch. I.

SEC. 5. EXIT INTERVIEWS AND EXIT REPORTS

An exit interview shall be conducted, if possible, and an exit report shall be prepared for every employee who leaves employment with RMA.

SEC. 6. SOCIAL SECURITY NUMBERS

It shall be unlawful for RMA to deny to any individual any right, benefit, or privilege provided by law because of the individual's refusal to disclose his or her social security number.

a) Exceptions

The above provision does not apply to:

1. Any disclosure that is required by federal statute. The United States Internal Revenue Code provides that the social security number issued to an individual for purposes of federal income tax laws shall be used as the identifying number for taxpayers;
2. Any disclosure to RMA maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted before such date to verify the identity of an individual; or
3. Any use for the purposes of establishing the identity of individuals affected by any tax, general public assistance, driver's license, or motor vehicle registration law within RMA's jurisdiction.

b) Statement of Uses

Upon disclosing an employee's social security number, RMA shall inform that employee whether the disclosure is mandatory or voluntary, by what statutory authority such number is solicited, and what uses will be made of it.

Privacy Act of 1974, Pub. L. No. 93-579, Sec. 7, 88 Stat. 1896, 1897 (1974).

SEC. 7. EMPLOYMENT ASSISTANCE PROHIBITED

Upon receipt of Title I funds, the Superintendent shall adopt regulations that prohibit any individual who is a RMA employee, contractor, or agent from assisting a RMA employee in obtaining a new job, apart from the routine transmission of administrative and personnel files, if

the individual or RMA knows, or has probable cause to believe, that such school employee engaged in sexual misconduct regarding a minor or student in violation of the law.

This requirement shall not apply if the information giving rise to probable cause has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct; and has been properly reported to any other authorities as required by federal, state, or local law, including Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and the implementing regulations under Part 106 of Title 34, Code of Federal Regulations, or any succeeding regulations; and:

1. The matter has been officially closed or the prosecutor or police with jurisdiction over the alleged misconduct has investigated the allegations and notified RMA officials that there is insufficient information to establish probable cause that the school employee engaged in sexual misconduct regarding a minor or student in violation of the law;
2. The school employee has been charged with and acquitted or otherwise exonerated of the alleged misconduct; or
3. The case or investigation remains open and there have been no charges filed against, or indictment of, the school employee within four years of the date on which the information was reported to a law enforcement agency.

20 U.S.C 7926.

PG-4.202 PRE-EMPLOYMENT CREDENTIALS & EMPLOYEE RECORDS

SEC. 1. MINIMUM QUALIFICATIONS FOR PRINCIPALS AND TEACHERS

A person employed by RMA as a Principal or teacher must hold at least a baccalaureate degree. Education Code 12.129. *19 TAC 100.1212(a)*.

A person may be employed as a teacher for a noncore vocational course without holding a baccalaureate degree if Richard Milburn Academy serves youth referred to or placed in a residential trade center by a local or state agency if the person has:

1. demonstrated subject matter expertise related to the subject taught, such as professional work experience; formal training and education; holding a relevant active professional industry license, certification, or registration; or any combination of work experience, training and education, and industry license, certification, or registration; and
2. received at least 20 hours of classroom management training, as determined by the governing body of the open-enrollment charter school. Documentation of the training is to be maintained locally and provided to the Texas Education Agency ("TEA") within 10 business days upon request.

19 TAC 100.1212(b).

Special education teachers, prekindergarten teachers, bilingual teachers, and teachers of English as a second language must be certified in the fields in which they are assigned to teach as required by state and/or federal law. *19 TAC 100.1212(c)*.

All persons employed as paraprofessionals must be certified as required to meet state and/or federal law. *19 TAC 100.1212(d)*.

Richard Milburn Academy shall obtain from the Department of Public Safety (DPS), prior to the hiring of personnel and at least every third year thereafter, all criminal history record information maintained by DPS that the charter school is authorized to obtain. *19 TAC 100.1212(e)*.

SEC. 2. PRE-EMPLOYMENT AFFIDAVIT

An applicant for employment as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, school counselor, audiologist, occupational therapist, physical therapist, physician, nurse, school psychologist, associate school psychologist, licensed professional counselor, marriage and family therapist, social worker, or speech language pathologist must submit, using a form adopted by the Texas Education Agency, a pre-employment affidavit disclosing whether the applicant has ever been charged with, adjudicated for, or convicted of having an inappropriate relationship with a minor.

An applicant who answers affirmatively concerning an inappropriate relationship with a minor must disclose in the affidavit all relevant facts pertaining to the charge, adjudication, or conviction, including whether the charge was determined to be true or false.

An applicant is not precluded from being employed based on a disclosed charge if RMA determines based on the information disclosed in the affidavit that the charge was false.

A determination that an employee failed to disclose information required to be disclosed by an applicant is grounds for termination of employment.

Education Code 21.009.

SEC. 3. TEA REGISTRY OF PERSONS NOT ELIGIBLE FOR EMPLOYMENT IN PUBLIC SCHOOLS

RMA shall discharge or refuse to hire any person listed on the registry of persons who are not eligible to be employed by a school district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement, as such registry is maintained and published by the TEA. Education Code 22.092(b) ; *19 TAC 100.1212(f)*.

SEC. 4. NOTICE TO PARENTS – QUALIFICATIONS

a) Notice Requirements – State Law

The Superintendent or designee shall provide to the parent or guardian of each student enrolled in RMA written notice of the qualifications of each teacher employed by RMA.

Education Code 12.130.

b) Notice Requirements – Federal Law

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

1. Whether a child's teacher(s):
    a. have met state qualification and licensing criteria for their grade levels and subject areas;
    b. is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived; and
    c. is teaching in the field of discipline of the certification of the teacher.
2. Whether a child receives services from paraprofessionals and, if so, their qualifications.

20 USC 6312(e)(1)(A).

Additionally, RMA will, upon parent request, provide to each parent of a child who attends any school receiving Title I, Part A funds with:

1. Information on the level of achievement and academic growth of the student, if applicable and available, on each required state academic assessment; and
2. Timely notice that the student has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable state certification or licensure requirements at the grade level and subject area in which the teacher has been assigned.

20 USC 6312(e)(1)(B).

SEC. 5. ACCESS TO EMPLOYEE RECORDS

Custodians of personnel records shall adhere to the requirements of the Texas Public Information Act ("TPIA").

Information in a personnel file is excepted from the requirements of the TPIA if the disclosure would constitute a clearly unwarranted invasion of personal privacy.

A RMA employee shall choose whether to allow public access to information in RMA's custody that relates to the employee's home address, home telephone number, emergency contact information, Social Security number, or that reveals whether the person has family members.

Gov't Code 552.024, 552.102(a).

The Superintendent shall develop procedures for employees to opt-out of having the above information released.

All information in the personnel file of a RMA employee shall be made available to that employee or the employee's designated representative as public information is made available under the TPIA. An employee or an employee's authorized representative has a special right of access, beyond the right of the general public, to information held by RMA that relates to the employee and that is protected from public disclosure by laws intended to protect the accessing employee's privacy interests. RMA may assert as grounds for denial of access other provisions of the TPIA or other laws that are not intended to protect the accessing employee's privacy interests. *Gov't Code 552.102(a)*.

PG-4.203 CRIMINAL HISTORY AND CREDIT REPORTS

SEC. 1. DEFINITIONS

"Criminal history clearinghouse" ("Clearinghouse") means the electronic clearinghouse and subscription service established by the Department of Public Safety ("DPS") to provide criminal history record information to persons entitled to receive that information and to provide updates to such information. A person who is the subject of the criminal history record information requested must consent to the release of the information.

Gov't Code 411.0845(a), (h).

"Criminal history record information" (the "CHRI") means information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, information, and other formal criminal charges and their dispositions. The term does not include:

1. Identification information, including fingerprint records, to the extent that the identification information does not indicate involvement of the person in the criminal justice system; or

2. Driving record information maintained by the department under Subchapter C, Chapter 521, Transportation Code.

Gov't Code 411.082(2).

"National criminal history record information" ("NCHRI") means criminal history record information obtained from DPS under Government Code Chapter 411, Subchapter F, and the Federal Bureau of Investigation (the "FBI") under Government Code 411.087.

Education Code 22.081(2).

SEC. 2. CERTIFIED PERSONS

The State Board for Educator Certification (the "SBEC") shall review the NCHRI of a person who has not previously submitted fingerprints to the department or been subject to a national criminal history record information review who is an applicant for or holder of a certificate and who is employed by or is an applicant for employment by RMA.

Education Code 22.0831(b), (c).

SEC. 3. NONCERTIFIED EMPLOYEES

This section applies to a person who is not an applicant for or holder of a certificate from the SBEC and who, on or after January 1, 2008, is offered employment by:

1. RMA; or
2. A shared services arrangement, if the employee's or applicant's duties are or will be performed on school property or at another location where students are regularly present.

For noncertified employees of RMA or a shared services arrangement hired before January 1, 2008, see Section 7 (All Other Employees) below.

a) Information to DPS and the Texas Education Agency (the "TEA")

Before or immediately after employing or securing the services of a person subject to this section, RMA shall send or ensure that the person sends to the DPS information that the DPS requires for obtaining NCHRI, which may include fingerprints and photographs.

RMA shall provide the TEA with the name of a person to whom this section applies. The TEA shall examine the CHRI of the person and notify RMA if the person may not be hired or must be discharged under Education Code 22.085.

b) Employment Pending Review

After the required information is submitted, the person may begin employment, but that employment is conditional upon the review and acceptability of that person's CHRI by RMA and by the TEA. If RMA or the TEA makes a determination that the employee or applicant is ineligible for employment, the employee must be terminated.

c) Criminal History

RMA shall obtain all CHRI that relates to a person subject to this section through the Clearinghouse and shall subscribe to the CHRI of that person. RMA may require the person to pay any fees related to obtaining the CHRI.

Education Code 22.0833; 19 TAC 153.1109(d).

SEC. 4. SUBSTITUTE TEACHERS

This section applies to a person who is a substitute teacher for RMA or a shared services arrangement. For purposes of this policy, a "substitute teacher" is a teacher who is on call or on a list of approved substitutes to replace a regular teacher and has no regular or guaranteed hours. A substitute teacher may be certified or noncertified.

a) Information to DPS and TEA

RMA shall send or ensure that a person to whom this section applies sends to the DPS information required for obtaining NCHRI, which may include fingerprints and photographs.

RMA shall provide the TEA with the name of a person to whom this section applies. The TEA shall examine the CHRI and certification records of the person and notify RMA if the person:

1. May not be hired or must be discharged as provided by Education Code 22.085; or
2. May not be employed as a substitute teacher because the person's educator certification has been revoked or is suspended.

b) Employment Pending Review

After the required information is submitted, the person may begin employment, but that employment is conditional upon the review of that person's CHRI by RMA and by the TEA. If RMA or the TEA makes a determination that the employee or applicant is ineligible for employment, the employee must be terminated.

c) Criminal History

RMA shall obtain all CHRI that relates to a person to whom this section applies through the Clearinghouse. RMA may require the person to pay any fees related to obtaining the CHRI.

Education Code 22.0836; 19 TAC 153.1101(5), 153.1111(d).

SEC. 5. STUDENT TEACHERS AND VOLUNTEERS

This section applies to:

1. A person participating in an internship consisting of student teaching to receive a teaching certificate; and
2. A volunteer or person who has indicated, in writing, an intention to serve as a volunteer with RMA.

a) Criminal History

A person may not perform any student teaching or volunteer duties until:

1. The student teacher or volunteer has provided to RMA a driver's license or another form of identification containing the person's photograph issued by an entity of the United States government; and
2. RMA has obtained from the DPS all CHRI that relates to the student teacher or volunteer. RMA may also obtain CHRI relating to a student teacher or volunteer from any other law enforcement agency, criminal justice agency, or private consumer reporting agency.

RMA may require a student teacher or volunteer to pay any costs related to obtaining the CHRI.

b) Exception

The criminal history requirements above do not apply to a person who volunteers or is applying to volunteer with RMA if the person:

1. Is the parent, guardian, or grandparent of a child who is enrolled in RMA;
2. Will be accompanied by a RMA employee while on a RMA campus; or
3. Is volunteering for a single event on RMA campus.

Education Code 22.0835.

SEC. 6. COORDINATION OF EFFORTS

RMA may coordinate with the TEA, the SBEC, and a shared services arrangement as necessary to ensure that criminal history reviews are not unnecessarily duplicated.

Education Code 22.0833(h).

SEC. 7. ALL OTHER EMPLOYEES

RMA shall obtain CHRI that relates to a person who is not subject to a NCHRI review and who is an employee of:

1. RMA; or
2. A shared services arrangement, if the employee's duties are performed on school property or at another location where students are regularly present.

RMA may obtain the CHRI from:

1. The DPS;
2. A law enforcement or criminal justice agency; or
3. A private consumer reporting agency.

Education Code 22.083(a), (a-1), (c); Gov't Code 411.097.

SEC. 8. CONFIDENTIALITY OF CRIMINAL HISTORY RECORDS

CHRI that RMA obtains from the DPS, including any identification information that could reveal the identity of a person about whom the CHRI is requested and information that directly or indirectly indicates or implies involvement of a person in the criminal justice system:

1. Is for the exclusive use of RMA; and
2. May be disclosed or used by RMA only if, and only to the extent, disclosure is authorized or directed by a statute, rule, or order of a court of competent jurisdiction.

For purposes of these confidentiality provisions, "criminal history record" information does not refer to any specific document provided by the DPS, but to the information contained, wholly or partly, in a document's original form or any subsequent form or use.

RMA or an individual may not confirm the existence or non-existence of CHRI to any person who is not eligible to receive the information. *Gov't Code 411.084.*

CHRI obtained by RMA, in the original form or any subsequent form, may not be released to any person except the individual who is the subject of the information, the TEA, the SBEC, or by

court order. The CHRI is not subject to disclosure under Government Code Chapter 552 (Public Information Act).

A RMA employee may request from the Human Resources Department a copy of any CHRI related to that employee that RMA has obtained from the DPS. RMA may charge a fee to provide the information, not to exceed the actual cost of copying the CHRI.

Gov't Code 411.097(d), (f).

RMA generally will not print out CHRI, unless necessary for conducting a review of records or if seeking legal advice concerning eligibility for employment following receipt of a CHRI report.

Any RMA employee who violates confidentiality protocols concerning access to, review of, or confidentiality of CHRI is subject to discipline, up to and including termination.

a) Destroying CHRI

RMA shall destroy CHRI obtained from the DPS on the earlier of:

1. The date the information is used for the authorized purpose; or
2. The first anniversary of the date the information was originally obtained.

Gov't Code 411.097(d)(3).

This process also applies if it is necessary to print out CHRI.

SEC. 9. CONFIDENTIALITY OF CHRI INFORMATION

RMA may not release information collected about a person in order to obtain CHRI, including the person's name, address, phone number, social security number, driver's license number, other identification number, and fingerprint records, except:

1. To comply with Government Code Chapter 22, Subchapter C (criminal records);
2. By court order; or
3. With the consent of the person who is the subject of the information.

In addition, the information is not subject to disclosure under Government Code Chapter 522 (Public Information Act). RMA shall destroy the information not later than the first anniversary of the date the information is received.

Education Code 22.08391.

SEC. 10. SBEC NOTIFICATION

The Superintendent or designee shall promptly notify the SBEC in writing by filing a report with the TEA staff within seven calendar days of the date the Superintendent obtains or has knowledge of information indicating that an applicant for or holder of a certificate issued by the SBEC has a reported criminal history and RMA obtained information about the educator's criminal record by a means other than by the DPS.

"Reported criminal history" means information concerning any formal criminal justice system charges and dispositions. The term includes arrests, detentions, indictments, criminal information, convictions, deferred adjudications, and probations in any state or federal jurisdiction.

Education Code 22.087; 19 TAC 249.14(d), .3(43).

SEC. 11. DISCHARGE OF CONVICTED EMPLOYEES

a) Discharge Under Education Code 22.085

In accordance with Education Code 22.085, RMA shall discharge or refuse to hire an employee or applicant for employment if RMA obtains information through a CHRI review that the employee or applicant has been:

1. Convicted of or placed on deferred adjudication community supervision for an offense for which a defendant is required to register as a sex offender under Code of Criminal Procedure Chapter 62; or
2. Convicted of:
   a. A felony offense under Title 5, Penal Code, if the victim of the offense was under 18 years of age at the time the offense was committed; or
   b. An offense under the laws of another state or federal law that is equivalent to an offense under item 1 or item 2(a).

However, RMA is not required to discharge or refuse to hire an employee or applicant if the person committed an offense under Title 5 Penal Code and:

1. The date of the offense is more than 30 years before:
   a. June 15, 2007 in the case of a person employed by RMA as of that date; or
   b. The date the person's employment will begin, in the case of a person applying for employment with RMA after June 15, 2007; and
2. The employee or applicant for employment satisfied all terms of the court order entered on conviction.

b) Discharge Under Education Code 12.120 and 19 TAC 100.1153

Additionally, in accordance with Education Code 12.120 and 19 TAC 100.1153, an individual may not be employed by RMA if he or she:

1. Has been convicted of any felony or a misdemeanor involving moral turpitude;
2. Has been convicted of any offense listed in Education Code section 37.007(a); or
3. Has been convicted of an offense listed in the Code of Criminal Procedure section 62.001(5).

c) Exception

Notwithstanding the foregoing, a person may be employed in any position by RMA if a school district could employ the person in that position and the TEA approves of the employment

pursuant to Education Code section 12.1059.

Education Code 12.120; 19 TAC 100.1153(b).

d) Certification to TEA

Each school year, the Superintendent or designee shall certify to the Commissioner of Education that RMA has complied with the above provisions.

e) Optional Termination

RMA may discharge an employee if it obtains information of the employee's conviction of a felony or misdemeanor involving moral turpitude that the employee did not disclose to the SBEC or RMA.

SEC. 12. NOTIFICATION OF ARRESTS, INDICTMENTS, CONVICTIONS, AND OTHER ADJUDICATIONS

A RMA employee shall notify his or her Principal or immediate supervisor within three calendar days of any arrest, indictment, conviction, guilty or no contest plea, or other adjudication of the employee for any felony offense or misdemeanor offense involving moral turpitude and/or:

1. Crimes involving RMA property or funds;
2. Crimes involving attempt by fraudulent or unauthorized means to obtain or alter any certificate or permit that would entitle any person to hold or obtain a position as an educator;
3. Crimes that occur wholly or in part on RMA property or at a school-sponsored or school-related activity; or
4. Crimes involving moral turpitude, which include:
    a. Dishonesty, fraud, deceit, theft, misrepresentation;
    b. Deliberate violence;
    c. Base, vile or depraved acts that are intended to arouse or gratify the sexual desire of the actor;
    d. Acts constituting public intoxication, operating a motor vehicle while under the influence of alcohol, or disorderly conduct; or
    e. Acts constituting abuse under the Texas Family Code.

SEC. 13. DISCRIMINATION BASED ON CRIMINAL HISTORY

Except as required by state or federal law, RMA does not prohibit employment or refuse to consider an application for employment solely on the grounds that an applicant/employee has a prior criminal record. RMA does not prohibit employment or refuse to consider an application for employment based solely on the grounds that the applicant/employee has been arrested. It is the policy of RMA, prior to any exclusion of an applicant for employment or continued employment of an employee that has a criminal record, to conduct an individualized assessment of the criminal conduct at issue. In conducting such an assessment, RMA shall carefully consider the following in order to determine that any exclusion based on criminal conduct is job related to the position in question and consistent with the business necessity of RMA:

- The nature and gravity of the offense or offenses;
- The time that has passed since the conviction and/or completion of the sentence;
- The nature of the job held or sought.

RMA shall consider the additional information provided by the applicant/employee that demonstrates that the criminal conduct is not job related and is consistent with business necessity of RMA prior to making any final determination. Such additional information may include:

- The facts or circumstances surrounding the offense or conduct;
- The number of offenses for which the individual was convicted;
- Age at the time of conviction, or release from prison;
- Evidence that the individual performed the same type of work, post-conviction, with the same or a different employer, with no known incidents of criminal conduct;
- The length and consistency of employment history before and after the offense;
- Rehabilitation efforts, e.g., education/training;
- Employment or character references regarding fitness for the particular position;
- Whether the individual is bonded under a federal, state or local bonding program.

SEC. 14. CONSUMER CREDIT REPORTS

a) Definitions

"Adverse action" includes a denial of employment or any other decision for employment purposes that adversely affects any current or prospective employee.

"Consumer report" includes any information from a consumer reporting agency that is used or expected to be used as a factor in establishing the person's eligibility for employment.

"Consumer reporting agency" is an agency that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly assembles or evaluates consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

"Employment purposes" when used in connection with a consumer report means a report used for the purpose of evaluating a person for employment, promotion, reassignment, or retention as an employee.

15 U.S.C. 1681a.

b) Obtaining Consumer Credit Reports

RMA may not procure a consumer report for employment purposes unless:

1. RMA has provided the applicant or employee a written disclosure that a consumer report may be obtained for employment purposes; and
2. The applicant or employee has authorized in writing the procurement of the consumer report.

c) Adverse Action

Before taking any adverse action based on the consumer report, RMA shall provide the applicant or employee a copy of the consumer report and a written description of the person's rights under the Fair Credit Reporting Act, as prescribed by the Federal Trade Commission.

15 U.S.C. 1681b(b)(2).

d) Discrepancies in Address

The Superintendent or designee shall develop and implement reasonable policies and procedures designed to enable RMA, when it receives a notice of address discrepancy, to form a reasonable belief that a consumer report relates to the consumer about whom it has requested the report. The Superintendent or designee shall also develop and implement reasonable policies and procedures for furnishing an address for the consumer, which RMA has reasonably confirmed is accurate, to the consumer reporting agency.

16 CFR 641.1.

e) Disposing of Consumer Credit Report Records

RMA must properly dispose of a consumer report by taking reasonable measures to protect against unauthorized access to or use of the information. "Dispose" includes discarding or abandoning the consumer report, or selling, donating, or transferring any medium, including computer equipment, upon which the consumer report is stored.

Examples of reasonable measures include:

1. Burning, pulverizing, or shredding papers containing a consumer report so the information cannot practicably be read or reconstructed;
2. Destroying or erasing electronic media containing a consumer report so that the information cannot practicably be read or reconstructed; or
3. After due diligence, entering into and monitoring compliance with a contract with another party engaged in the business of record destruction to dispose of the consumer report.

16 CFR 682.3.

PG-4.204 REPORTING EMPLOYEE MISCONDUCT

PART I: Reporting Educator Misconduct

SEC. 1. MATTERS TO REPORT

In addition to the reporting requirements under Family Code 261.101, the Superintendent shall notify the State Board for Educator Certification (the "SBEC") if:

1. An educator employed by or seeking employment with RMA has a reported criminal

history and RMA obtained information about the educator's criminal record by a means other than the criminal history clearinghouse established by the Texas Department of Public Safety;

2. An educator's employment with RMA was terminated and there is evidence that the educator:
    a. Abused or otherwise committed an unlawful act with a student or minor;
    b. Was involved in a romantic relationship or solicited or engaged in sexual conduct with a student or minor;
    c. Possessed, transferred, sold, or distributed a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. § 801 et seq.;
    d. Illegally transferred, appropriated, or expended RMA property or funds;
    e. Attempted by fraudulent or unauthorized means to obtain or alter a professional certificate or license for purposes of promotion or additional compensation; or
    f. Committed a crime or any part of a crime while on RMA property or at a school-sponsored event.
    g. The educator resigned and reasonable evidence supported a recommendation to terminate the individual because he or she engaged in misconduct described in paragraph 2 above; or
3. The educator resigned and reasonable evidence supported a recommendation to terminate the individual because he or she engaged in misconduct described in paragraph 2 above; or
4. The educator engaged in conduct that violated the assessment instrument security procedures established by Education Code section 39.0301.

Education Code 12.104(b)(3)(N), 21.006, 22.087; 19 TAC 249.14(d).

SEC. 2. REQUIREMENT TO COMPLETE INVESTIGATION

The Superintendent shall complete an investigation of an educator that involves evidence that the educator may have engaged in misconduct items 2(a) or (b) in Part I, Section 1 (Matters to Report) above, despite the educator's resignation from employment before completion of the investigation.

Education Code 21.006(b-1).

SEC. 3. DEADLINE FOR REPORTING TO SBEC

The Superintendent must notify the SBEC in writing not later than the seventh business day after the date the Superintendent receives a report under Part I, Section 6 (Report by Principal) or otherwise knew about an educator's termination of employment or resignation following an alleged incident of misconduct or an employee's criminal record. *Education Code 21.006(c)*.

SEC. 4 CONTENTS OF REPORT

The report shall be in writing in a form prescribed by the SBEC, and may be filed through the Internet portal developed and maintained by the SBEC, and must include the name or names of any student or minor who is the victim of abuse or unlawful conduct by an educator. The report shall, at a minimum, describe in detail the factual circumstances requiring the report and identify the subject of the report by providing the following available information:

1. Name and any aliases;
2. Certificate number, if any, or social security number;
3. Last known mailing address and home and daytime phone numbers;
4. All available contact information for any alleged victim or victims;
5. Name or names and any available contact information of any relevant witnesses to the circumstances requiring the report;
6. Current employment status of the subject, including any information about proposed termination, notice of resignation, or pending employment actions; and
7. Involvement by a law enforcement or other agency, including the Texas Education Agency.

Education Code 21.006(c-1); 19 TAC 249.14(f).

The Superintendent shall include the name of a student or minor who is the victim of abuse or unlawful conduct by an educator, but the name of the student or minor is not public information under Government Code Chapter 552. *Education Code 21.006(h)*.

SEC. 5. REPORT NOT REQUIRED

The Superintendent is not required to notify the SBEC or file a report if the Superintendent:

1. Completes an investigation into an alleged incident of misconduct for:
   a. Abuse or unlawful act with a student or minor; or
   b. Involvement in a romantic relationship with or solicitation or engagement in sexual contact with a student or minor; and
2. Determines the educator did not engage in the alleged incident of misconduct.

Education Code 21.006(c-2); 19 TAC 249.14(d).

The Superintendent should seek legal counsel before making any such determination, and if there is any doubt or concern, err on the side of reporting to the SBEC.

SEC. 6 REPORT BY THE PRINCIPAL

The Principal of a RMA campus must notify the Superintendent not later than the seventh business day after learning of an educator's termination of employment or resignation following an alleged incident of misconduct or the principal knew about an educator's criminal record, as described in Part I, Section 1 (Matters to Report) above.

Education Code 21.006(b-2).

SEC.7 NOTICE OF REPORT

a) Notice to the Board and Educator

The Superintendent shall notify the Board and the educator of the filing of a report to the SBEC. The Superintendent shall notify the Board before filing the report. *Education Code 21.006(d); 19 TAC 249.14(d)(3)(B)*.

b) Notice Prior to Accepting Educator's Resignation

Before accepting an employee's resignation that requires filing a report, the Superintendent shall inform the educator in writing that a report will be filed and that sanctions against his or her certificate may result as a consequence. *19 TAC 249.14(d)(3)(A)*.

c) Notice to Parents

The Superintendent or designee shall provide notice to the parent or guardian of a student if there is evidence that an educator:

1. Abused or otherwise committed an unlawful act with a student or minor; or
2. Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor.

The notice must inform the parent or guardian:

1. That the alleged misconduct occurred;
2. Whether the educator was terminated following an investigation of the alleged misconduct or resigned before completion of the investigation; and
3. Whether a report was submitted to the SBEC concerning the alleged misconduct.

The Superintendent or designee shall provide such notice as soon as feasible after RMA becomes aware that alleged misconduct may have occurred.

Education Code 21.0061.

SEC. 8. IMMUNITY

The Superintendent, a director, or principal who, in good faith and while acting in an official capacity, files a report with the SBEC under this policy or communicates with another superintendent, director, or principal concerning an educator's criminal record or alleged incident of misconduct is immune from civil or criminal liability that might otherwise be incurred or imposed. *Education Code 21.006(e)*.

PART II: Reporting Employee (Non-Educator) Misconduct

SEC. 1. APPLICABILITY

Part II of this policy applies to a person who is employed by RMA and who does not hold a certification or permit issued under Subchapter B, Chapter 21 of the Texas Education Code.

SEC. 2. TERMINATIONS OR RESIGNATIONS TO REPORT

In addition to the reporting requirement under Section 261.10, Family Code, the Superintendent shall notify the Commissioner of Education (the "Commissioner") if:

1. An employee's employment at RMA was terminated and there is evidence that the employee:
   a. Abused or otherwise committed an unlawful act with a student or minor; or
   b. Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor; or
2. The employee resigned and there is evidence that the employee engaged in misconduct described in item 1 above.

Education Code 22.093(c).

SEC. 3. NOTICE BY THE PRINCIPAL

The Principal of any RMA campus must notify the Superintendent not later than the seventh business day after the date of an employee's termination of employment or resignation in the circumstances discussed in Part II, Section 2 (Terminations or Resignations to Report).

Education Code 22.093(e).

SEC. 4 REQUIREMENT TO COMPLETE INVESTIGATION

The Superintendent shall complete an investigation of an employee that involves evidence that the employee may have engaged in misconduct described in Part II, Section 2 (Terminations or Resignations to Report), despite the employee's resignation from employment before completion of the investigation.

Education Code 22.093(d).

SEC. 5. DEADLINE TO REPORT TO THE COMMISSIONER

The Superintendent must notify the Commissioner by filing a report not later than the seventh business day after the date the Superintendent receives a report from a Principal or knew about an employee's termination of employment or resignation following an alleged incident of misconduct described in Part II, Section 2 (Terminations or Resignations to Report).

The report must be in writing and in a form prescribed by the Commissioner.

Education Code 22.093(f).

SEC. 6. ADDITIONAL REPORTS

The Superintendent shall notify the Board and the employee of the filing of the report.

Education Code 22.093(g).

SEC. 7. IMMUNITY

The Superintendent, director, or Principal who in good faith and while acting in an official capacity files a report under this Sec. 4.3.2 is immune from civil or criminal liability that might otherwise be incurred or imposed.

Education Code 22.093(h).

PG- 4.205 REPORTING CHILD ABUSE AND NEGLECT

SEC. 1. REPORTING CHILD ABUSE OR NEGLECT

Any RMA officer, director, employee, agent, volunteer or contractor having reasonable cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse, maltreatment or neglect by any person shall **immediately** make a report (within 48 hours or less) to at least one of the following authorities after learning of facts giving rise to the reasonable cause to believe:

1. A local or state law enforcement agency;
2. The Texas Department of Family and Protective Services ("DFPS"), Child Protective Services Division;
3. A local office of Child Protective Services, where available; or
4. The state agency that operates, licenses, or registers the facility in which the alleged child abuse or neglect occurred.

If a professional has reasonable cause to believe that a child has been abused, maltreated or neglected or may be abused, maltreated or neglected, or that a child is a victim of an offense under Penal Code 21.11 (Indecency with a Child), and the professional has reasonable cause to believe that the child has been abused as defined by law, the professional shall make a report **not later than the 48th hour** after the hour the professional first has reasonable cause to believe that the child has been or may be abused or neglected or is a victim of an offense under Penal Code 21.11. A professional **may not delegate to or rely on** another person to make the report.
For purposes of this policy, "professional" means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children.

A report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect. The individual making the report shall identify, if known:

1. The name and address of the child;
2. The name and address of the person responsible for the care, custody, or welfare of the child;
3. The facts that caused the individual to believe the child has been abused or neglected and the source of the information;
4. The individual's name and telephone number;
5. The individual's:
   a. Home address; or
   b. If the individual is a professional as defined by Family Code § 261.101(b), the individual's business address and profession; and
6. Any other pertinent information concerning the alleged or suspected abuse or neglect.

If the suspected abuse or neglect involves a person responsible for the custody, care or welfare of the child, the report must generally be made to the DFPS. All other reports should be made to any local or state law enforcement agency, the DFPS, the Texas Education Agency (if abuse or neglect occurred at school), another state agency where the abuse or neglect occurred, or an agency designated by a court responsible for protection of children.

Texas Family Code, Chapter 261; 19 TAC 100.1211.

SEC. 2. TRAINING

The Superintendent or designee shall ensure that training concerning prevention techniques for, and recognition of, sexual abuse, trafficking, and all other maltreatment of children, including the sexual abuse, trafficking, and other maltreatment of children with significant cognitive disabilities, must be provided as a part of new employee orientation to all new RMA employees as required by Education Code 38.0041. The training must include:

1. Factors indicating a child is at risk for sexual abuse, trafficking, or other maltreatment;
2. Warning signs indicating a child may be a victim of sexual abuse, trafficking, or other maltreatment;
3. Internal procedures for seeking assistance for a child who is at risk for sexual abuse, trafficking, or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;
4. Techniques for reducing a child's risk for sexual abuse, trafficking, or other maltreatment; and
5. Information on community organizations that have relevant research-based programs that are able to provide training or other education for RMA staff, students, and parents.

RMA must maintain records that include the district or charter school staff members who participated in the training.

The Superintendent or designee may work in conjunction with a community organization to provide the training at no cost to RMA

19 TAC 103.1401(d)(1)-(3).

SEC. 3. RETALIATION PROHIBITED

RMA may not suspend or terminate the employment of, discriminate against, or take any other adverse employment action against a person who is a professional, as that term is defined by Texas Family Code 261.101(b), and who in good faith:

1. Reports child abuse or neglect to:
    a. The person's supervisor;
    b. An administrator of the facility where the person is employed;
    c. A state regulatory agency; or
    d. A law enforcement agency; or
2. Initiates or cooperates with an investigation or proceeding by a governmental entity

relating to an allegation of child abuse or neglect.

"Adverse employment action" means an action that affects an employee's compensation, promotion, transfer, work assignment, or performance evaluation, or any other employment action that would dissuade a reasonable employee from making or supporting a report of abuse or neglect.

Texas Family Code 261.110.

SEC. 4. POSTING INFORMATION

Using a format and language that is clear, simple, and understandable to students, RMA shall post, in English and in Spanish:

1. The current toll-free DFPS Abuse Hotline telephone number;
2. Instructions to call 911 for emergencies; and
3. Directions for accessing the DFPS website (www.txabusehotline.org) for more information on reporting abuse, neglect, and exploitation.

This information shall be posted at each RMA campus in at least one high-traffic, highly and clearly visible public area that is readily accessible to and widely used by students. The information must be on a poster (11 x 17 inches or larger) in large print and placed at eye-level to the student for easy viewing. The current toll-free DFPS Abuse Hotline telephone number should be in bold print.

Education Code 38.0042; *19 TAC 103.1401(e)-(f).*

SEC. 5. ANNUAL REVIEW

The Board shall annually review policies for reporting child abuse and neglect.

19 TAC 103.1401(b).

SEC. 6. COMPUTER TECHNICIAN REPORTS OF CHILD PORNOGRAPHY

Any computer technician employed by RMA who, in the course and scope of employment or business with RMA, views an image on a computer that is or appears to be child pornography must immediately report the discovery to a local or state law enforcement agency or the Cyber Tipline at the National Center for Missing and Exploited Children. The report must include the name and address of the owner or person claiming a right to possession of the computer, if known, and as permitted by federal law.

Except in a case of willful or wanton misconduct, a computer technician may not be civilly liable for reporting or failing to report the discovery of an image. A computer technician who intentionally fails to report an image may be subject to criminal prosecution.

Business & Commerce Code 110.002.

PG-4.206 EMPLOYEE AND GROOMING STANDARDS

An employee's dress and grooming shall appropriate for his or her assignment and in accordance with any additional standards established by the employee's supervisor and/or the Superintendent or designee.

RMA shall not adopt or enforce dress or grooming standards that discriminate against a hair texture or protective hairstyle commonly associated with race.

Labor Code 21.1095(c).

PG-4.207 EMPLOYEE FRATERNIZATION

SEC. 1. RATIONALE

RMA employees are expected to avoid apparent or actual conflicts of interest, favoritism, or bias in their workplace relationships. Consensual romantic relationships can give rise to such realities or perceptions and are thus potentially exploitative, especially when they involve supervisor/subordinate relationships. In addition, such relationships can and often do create an uncomfortable work or educational environment for students and staff.

SEC. 2. DEFINITION OF ROMANTIC RELATIONSHIPS

A "romantic relationships" is one that involves or is a prelude to sexual intimacy. A romantic relationship may be manifest through, but is not limited to, one or more of the following workplace behaviors: a pattern of exclusivity between two persons; consensual physical touching that implies a romantic intention or desire; the sharing of personal information appropriate for a romantic relationship but beyond the boundaries of a professional workplace relationship; actual physical intimacy; written communications or other actions that demonstrate or imply a romantic interest.

SEC. 3. RELATIONSHIPS BETWEEN EMPLOYEES AND STUDENTS

Employees shall never form romantic relationships with students. Any sexual relationship between a student and an employee is prohibited and unlawful, even if consensual.

SEC. 4. ROMANTIC RELATIONSHIPS BETWEEN EMPLOYEES

Unless otherwise approved by the Superintendent, if two employees marry, become relatives of each other or enter into an intimate relationship, they should not remain in a professional supervisory relationship. RMA will, at its discretion, attempt to identify other available positions, and allow one or both of such employees to apply for reassignment, or RMA may reassign the employees at its discretion. If no alternate position is available, RMA may terminate either of the employees at its discretion.

This policy is not intended to prohibit romantic or outside relationships among peers or colleagues; however, employees involved in such relationships are cautioned to avoid situations that may

contribute to an uncomfortable work or educational environment for other employees or students.

SEC. 5. REPORTING REQUIREMENTS

In the event that consensual romantic relationships exist or begin to develop between an employee and supervisor, the supervisor is charged with the responsibility of notifying his or her immediate supervisor of the relationship. The reporting supervisor shall cooperate in making appropriate workplace arrangements and adjustments, which may include but are not limited to reassignments of duties, departments and/or locations.

SEC. 6. FAILURE TO REPORT OR COOPERATE

Employees in positions of authority who fail to report a romantic relationship with a subordinate or fail to cooperate in efforts to reduce the potential for workplace conflicts as directed will be subject to disciplinary action, up to and including termination.

PG-4.208 EMPLOYEE COMPLAINTS AND GRIEVANCES (GENERAL)

SEC. 1. GUIDING PRINCIPLES

RMA values the opinions of all its employees. Employees have the right to express their views through appropriate informal and formal processes.

a) Informal Process

The Board encourages employees to discuss their grievances and complaints through informal meetings with their supervisor or Principal, or other administrator with authority to address the grievance or complaint. Grievances and complaints should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

b) Complaint Procedures

The Superintendent or designee shall develop a detailed employee grievance/complaint process; this grievance/complaint process shall recognize the Board's final authority to hear or decide employee grievances or complaints. The grievance/complaint process shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or "mini-trial" at any level.

The Superintendent or designee shall ensure that the detailed employee grievance/complaint process is made available to employees through the Employee Handbook.

c) Board Consideration of Employee Complaints and Grievances

The Board shall retain final authority to hear or decide employee grievances/complaints.

19 TAC 100. 1113(a)(1)(A).

The Board may conduct a closed meeting when hearing or deciding an employee

grievance/complaint as allowed by applicable law.

Gov't Code Ch. 551, Subch. D.

d) Freedom from Retaliation

Neither the Board nor any RMA employee shall unlawfully retaliate against an employee for bringing a grievance or complaint.

COMPLAINTS AND APPEALS PROCESS

i. Level One

Complaints must be filed:
Within (15) fifteen business days of the date the individual first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint; and
With the lowest level administrator who has authority to remedy the alleged problem.

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

The appropriate administrator shall investigate as necessary and schedule a conference with the complainant within ten (10) business days after receipt of the written complaint. The administrator may set reasonable time limits for the conference.

The administrator shall provide the individual with a written response within fifteen (15) business days after receipt of the written complaint. In reaching a decision, the administrator may consider information provided at the Level One conference and any other relevant documents or information the administrator believes will help resolve the complaint.

ii. Level Two

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

The appeal notice must be filed, in writing, within ten (10) business days of the date of the written Level One decision or, if no response was received, within ten (10) business days of the Level One response deadline.

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

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

The superintendent or designee shall hold a conference within fifteen (15) days after the appeal notice is filed. The conference shall be limited to the issues presented by the individual at Level One and identified in the Level Two appeal notice. The superintendent or designee may set reasonable time limits for the conference.

The superintendent or designee shall provide the individual a written response within fifteen (15) business days after the appeal notice is filed. In reaching a decision, the superintendent or designee may consider the Level One record, information provided at the Level Two conference, and any other relevant documents or information the Superintendent or designee believes will help resolve the complaint.

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

iii. Level Three

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

The appeal notice must be filed, in writing, within ten (10) business days of the date of the written Level Two response or, if no response was received, within ten (10) business days of the Level Two response deadline.

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

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

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

The appeal shall be limited to the issues and documents considered at Level Two.

Richard Milburn Academy shall determine whether the complaint will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law.

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

The Board is Richard Milburn Academy's final authority to hear or decide employee complaints and grievances. *Tex. Gov't Code §§551.001 (3) (B-L); 551.007*. Failure of the Board to take

action after hearing an employee's complaint or grievance indicates the Board's affirmance of the decision below.

PG-4.210 PROFESSIONAL DEVELOPMENT

SEC. 1. CLEARINGHOUSE ANNUAL REVIEW

The Superintendent shall recommend a professional development plan for all RMA employees. The Board shall annually review the continuing education and training clearinghouse published by the State Board for Educator Certification ("SBEC") and annually approved the school's professional development plan. RMA's professional development plan must:

(a) Be guided by the recommendations for training in the clearinghouse;
(b) Note any differences in the policy adopted from the recommendations in the clearinghouse; and
(c) Includes a schedule of all training required for educators or other RMA personnel.

Texas Education Code 21.4515(a).

To the extent of any conflict, a frequency requirement for the completion of training provided by statute prevails over a frequency requirement for that training included in the professional development policy approved by the Board.

Texas Education Code 21.4515(b).

a) PROFESSIONAL DEVELOPMENT POLICY

Purpose: The purpose of this Professional Development Policy is to ensure that educators and other personnel within RMA receive relevant and high-quality continuing education and training. This policy is designed to align with the recommendations outlined in the annual continuing education and training clearinghouse published by the State Board for Educator Certification ("SBEC").

Annual Review: The Board shall conduct an annual review of the continuing education and training clearinghouse provided by SBEC to stay abreast of the latest recommendations and best practices in professional development for educators and other relevant personnel.

Guided by Clearinghouse Recommendations: The professional development policy adopted by the Board shall be guided by the recommendations for training as outlined in the clearinghouse. The Board will strive to incorporate the most up-to-date and effective training methodologies to enhance the skills and knowledge of educators and other personnel.

Differences in Policy and Clearinghouse Recommendations: If the Board decides to deviate from the recommendations in the clearinghouse, such differences shall be explicitly noted in the adopted policy. The rationale for these deviations must be clearly articulated and justified, demonstrating a commitment to providing effective professional development while considering the unique needs and context of RMA.

Schedule of Required Training: The Board shall establish and maintain a comprehensive schedule outlining all training required for educators and other relevant personnel. This schedule will include details such as training topics, duration, frequency, and any other relevant information to ensure proper planning and implementation of professional development activities.

Implementation and Compliance: All educators and personnel within RMA are expected to adhere to the professional development policy. The Board shall monitor and evaluate compliance regularly to ensure that educators and other personnel are equipped with the necessary skills and knowledge to excel in their roles.

Review and Revision: This Professional Development Policy shall be subject to periodic review and revision as needed. Any updates to the policy will be made in consultation with the latest recommendations from the SBEC clearinghouse and in consideration of the evolving needs of the education sector.

Communication: The Board shall communicate the details of the professional development policy, including any deviations from the clearinghouse recommendations to all relevant stakeholders, ensuring transparency and understanding throughout the organization.

This policy shall be reviewed annually or as needed to ensure its continued relevance and effectiveness in supporting the professional growth of educators and other personnel.

PG-4.301 EMPLOYEE HEALTH AND SAFETY

SEC. 1. OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION COMPLIANCE

NOTE RMA is aware that the Occupational Safety and Health Administration ("OSHA") has issued findings that a Texas open-enrollment charter school network ***was not*** a covered employer under the Occupational Safety and Health Act (the "OSH Act"), meaning that OSHA ***did not*** have jurisdiction to review complaints of unsafe work practices under the OSH Act.

While recognizing that RMA may not be subject to the OSH Act, RMA prioritizes employee health and safety by implementing the below policy:

The Superintendent shall ensure that RMA complies with all applicable requirements of the Occupational Safety and Health Administration (the "OSHA") in order to reduce dangers to health and safety by creating and maintaining improved working conditions free from recognized hazards that may cause serious physical injury.

Accordingly, RMA shall:

1. Maintain a log of all occupational injuries and illnesses and report such occurrences as required by the OSHA;
2. Post notice of employee protections under the OSHA in the workplace;
3. Post citations issued by the OSHA, if any, at or near the place of the alleged violation and correct workplace hazards in the time allowed; and

4. Furnish all employees a place of employment free from recognized hazards.

a) Reporting Employee Injuries

Any employee suffering an injury or illness that is work-related – no matter how minor – is responsible for immediately reporting that illness or injury to his or her supervisor. Supervisors must report the injury or illness to the appropriate agency.

Once an injury or illness has been reported, an injury report must be completed within 48 hours.

b) Reporting Serious Injuries

Within eight hours after the death of any employee from a work-related incident or the in-patient hospitalization of three or more employees as a result of a work-related accident, RMA will orally report the fatality/multiple hospitalization by telephone or in person to the Area Office of the OSHA that is nearest to the site of the incident.

RMA will utilize the required OSHA forms to document and log each recordable injury or illness. This information will be kept current, maintained accurately, and retained for a period of five years.

c) Personal Protective Equipment

Each campus shall provide personal protective equipment for all employees so they are able to work safely with chemicals.

d) Safety Training

The Superintendent or designee shall provide training to employees on hazards and related matters as required by the OSHA.

SEC. 2. GENERAL SAFETY

All employees are expected to work in a safe and prudent manner abiding by all safety related policies and procedures

Lighted candles or open flames are not permitted for any purpose in RMA facilities, except when related to an approved lesson plan. Pyrotechnics in RMA buildings or on school grounds is strictly prohibited.

SEC. 3. ASBESTOS MANAGEMENT PLAN

RMA shall utilize the services of an accredited management planner to develop an asbestos management plan for each campus. A copy of the management plan shall be kept in the Central Office and be made available for inspection during normal business hours.

SEC. 4. PEST CONTROL TREATMENT

Employees are prohibited from applying any pesticide or herbicide without appropriate training and prior approval of the integrated pest management (IPM) coordinator. Any application of pesticide or herbicide must be done in a manner prescribed by law and RMA's integrated pest management program.

Notices of planned pest control treatment will be posted in RMA facilities 48 hours before the treatment begins. Individual employees may request in writing to be notified of pesticide applications. An employee who requests individualized notice will be notified by telephone, written or electric means.

Employees should immediately report any evidence of pest activity to RMA administrators or the Director of Facilities.

SEC. 5. CLEAN AIR ACT

In compliance with the Clean Air Act, RMA shall use only licensed technicians to service and replace air conditioning and refrigeration equipment.

SEC. 6. HAZARD COMMUNICATION ACT

To the extent that the requirements of the OSHA do not apply to RMA, RMA shall comply with the Texas Hazard Communication Act, Health and Safety Code Chapter 502.

RMA is concerned about the safety of all employees. The Superintendent or designee shall adopt procedures and perform the following duties in compliance with the Texas Hazard Communication Act:

1. Post and maintain the notice promulgated by the Texas Department of State Health Services (the "TDSHS") in the workplace.
2. Provide an education and training program for employees using or handling hazardous chemicals under normal operating conditions or foreseeable emergencies.
3. Maintain the written hazard communication program and a record of each training session to employees, including the date, a roster of the employees who attend, the subjects covered in the training session, and the names of the instructors. Records will be maintained for at least five years.
4. Compile and maintain a workplace chemical list that includes required information for each hazardous chemical normally present in the workplace or temporary workplace in excess of 55 gallons or 500 pounds, or as determined by the TDSHS for certain highly toxic or dangerous hazardous chemicals. The list will be readily available to employees and their representatives.
5. Update the list as necessary, but at least by December 31 each year, and maintain the list as required by law. Each workplace chemical list shall be dated and signed by the person responsible for compiling the information.

6. As required by law, label new or existing stocks of hazardous chemicals with the identity of the chemical and appropriate hazard warnings, if such stocks are not already appropriately labeled.
7. Maintain a legible copy of the most current manufacturer's material safety data sheets ("MSDS") for each hazardous chemical; request such sheets from the manufacturer if not already provided or otherwise obtain a current MSDS; make such sheets readily available to employees or their representatives on request.
8. Provide employees with appropriate personal protective equipment.

SEC. 7. PEST CONTROL TREATMENT NOTICE

The Superintendent or designee shall notify employees of any planned pest control treatment by both of the following methods:

1. Posting the sign provided by the certified applicator or technician in an area of common access the employees are likely to check on a regular basis at least 48 hours before each planned treatment.
2. Providing the official Structural Pest Control Service Consumer Information Sheet to any individual working in the building, on request.

SEC. 8. BLOODBORNE PATHOGEN CONTROL

The Superintendent or designee shall establish a written Exposure Control Plan designed to eliminate or minimize exposure to blood or other potentially infections materials, as defined by

29 C.F.R. 1910.1030.

The Exposure Control Plan shall contain at least the following elements:

An exposure determination containing:

1. A list of all job classifications in which all employees in those job classifications have occupational exposure;
    a. A list of job classifications in which some employees have occupational exposure; and
    b. A list of all tasks and procedures or groups of closely related task and procedures in which occupational exposure occurs and that are performed by employees in job classifications in which some employees have occupational exposure.
2. The schedule and method of implementation for the requirements set forth in 29 C.F.R. 1910.1030 regarding methods of compliance, HIV and HBV research laboratories and production facilities, Hepatitis B vaccination and post-exposure evaluation and follow-up, communication of hazards to employees, and recordkeeping; and
3. The procedure for the evaluation of circumstances surrounding exposure incidents as required by 29 C.F.R. 1910.1030.

The Exposure Control Plan shall be made accessible to all employees. The Superintendent or designee shall review and update the Exposure Control Plan at least annually and whenever necessary to reflect new or modified tasks and procedures that affect occupational exposure and to reflect new or revised employee positions with occupational exposure.

Where there is occupational exposure, RMA shall provide, at no cost to employees, appropriate personal protective equipment.

29 C.F.R. 1910.1030.

SEC. 9. PRE-EMPLOYMENT INQUIRIES AND EMPLOYMENT ENTRANCE EXAMINATIONS

RMA shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of a disability, except as provided below. However, RMA is permitted to make pre-employment inquiries into the ability of an applicant to perform job-related functions, such as asking an applicant to describe or demonstrate how, with or without reasonable accommodation, the applicant will be able to perform job-related functions.

42 U.S.C. 12112(d)(2); 29 CFR 1630.14(a).

RMA may require a medical examination (and/or inquiry) after an offer of employment has been made to a job applicant and prior to the beginning of employment duties and may condition the offer on the results of such examination (and/or inquiry), provided all entering employees in the same job category are subjected to such an examination (and/or inquiry) regardless of disability.

The results of an employment entrance medical examination shall be used only to determine the applicant's ability to perform job-related functions.

42 U.S.C. 12112(d)(3); 29 CFR 1630.14(b).

a) Confidentiality

Information obtained regarding the medical condition or history of the applicant shall be collected and maintained on separate forms and in separate medical files and shall be treated as confidential medical records. However, supervisors and managers may be informed regarding necessary restrictions on the employee's work or duties and necessary accommodation; first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.

29 CFR 1630.14(b)(c).

b) Examination During Employment

RMA may require a medical examination (and/or inquiry) of an employee that is job related and consistent with business necessity and may make inquiries into the ability of an employee to

perform job-related functions. The results of an employee's medical examination shall be used only to determine the employee's ability to perform job-related functions.

42 U.S.C. 12112(d)(3)–(4); 29 CFR 1630.14(c).

SEC. 10. EXAMINATIONS DURING EMPLOYMENT

The Superintendent or designee may require an employee to undergo a medical examination if information received from the employee, the employee's supervisor, or other sources indicates the employee has a physical or mental impairment that:

1. Interferes with the employee's ability to perform essential job functions; or
2. Poses a direct threat to the health or safety of the employee or others. A communicable or other infectious disease may constitute a direct threat.

RMA may designate the physician to perform the examination. If RMA designates the physician, RMA shall pay the cost of the examination. RMA may place the employee on paid administrative leave while awaiting results of the examination and evaluating the results.

Based on the results of the examination, the Superintendent or designee shall determine whether the employee has an impairment. If so, the Superintendent or designee shall determine whether the impairment interferes with the employee's ability to perform essential job functions or poses a direct threat. If not, the employee shall be returned to his or her job position.

If the impairment does interfere with the employee's ability to perform essential job functions or poses a direct threat, the Superintendent or designee shall determine whether the employee has a disability and, if so, whether the disability requires reasonable accommodation.

SEC. 11. OTHER REQUIREMENTS

Employees with communicable diseases shall follow recommendations of public health officials regarding contact with students and other employees. Food service workers shall comply with health requirements established by city, county, and state health authorities.

PG-4.302 DRUG, ALCOHOL, AND TOBACCO-FREE WORKPLACE

SEC. 1. DRUG- AND ALCOHOL-FREE WORKPLACE

RMA intends to provide a safe and drug- and alcohol-free environment for employees and students. With this goal in mind, RMA expressly prohibits:

1. The use, possession, solicitation for, or sale of narcotics or other illegal drugs, alcohol, or prescription medication without a prescription on RMA property or while performing an assignment.

2. Being impaired or under the influence of legal or illegal drugs or alcohol away from RMA, if such impairment or influence adversely affects the employee's work performance, the safety of the employee or of others, or put at risk RMA's reputation.
3. Possession, use, solicitation for, or sale of legal or illegal drugs or alcohol away from RMA, if such activity or involvement adversely affects the employee's work performance, the safety of the employee or of others, or puts at risk RMA's reputation.
4. The presence of any detectable amount of prohibited substances in the employee's system while at work, while on RMA property, or while on RMA-related business. "Prohibited substances" include illegal drugs, alcohol, or prescription drugs not taken in accordance with a prescription given to the employee.

SEC. 2. DRUG AND ALCOHOL TESTING

RMA will conduct drug and/or alcohol testing under any of the following circumstances:

a) School Drivers

Employees who drive RMA-owned or leased vehicle(s) on school-related business may be subject to drug and/or alcohol testing as determined necessary by the RMA administration.

b) Random Testing

Employees may be selected at random for drug and/or alcohol testing at any interval determined by RMA.

c) Reasonable Suspicion Testing

RMA may remove an employee from duty and require the employee to submit to drug and/or alcohol testing if there is reasonable suspicion that RMA that the employee may be under the influence of drugs in violation of RMA policy. Circumstances supporting a finding of reasonable suspicion include, but are not limited to, the following circumstances:

1. Evidence of drugs or alcohol on or about the employee's person or in the employee's vicinity;
2. Unusual conduct on the employee's part that suggests impairment or influence of drugs or alcohol;
3. Negative performance patterns; or
4. Excessive and unexplained absenteeism or tardiness.

The determination of reasonable suspicion will be based on specific observations of the appearance, behavior, speech, or body odors of the employee whose motor ability, emotional equilibrium, or mental acuity seems to be impaired while on duty, or other relevant information.

d) Post-Accident Testing

Any employee involved in an on-the-job accident or injury under circumstances that suggest possible use or influence of drugs or alcohol in the accident or injury event may be asked to

submit to a drug and/or alcohol test. "Involved in an on-the-job accident or injury" means not only the one who was or could have been injured, but also any employee who potentially contributed to the accident or injury event in any way.

SEC. 3. POLICY VIOLATIONS

An employee is subject to disciplinary sanctions under this policy if:

1. The employee is tested for drugs or alcohol outside of the employment context and the results indicate a violation of this policy;
2. The employee is tested for drugs or alcohol in accordance with this policy and the results indicate a violation of this policy; and/or
3. The employee refuses to submit to testing under this policy.

Disciplinary sanctions for violations of this policy may include, but are not limited to:

1. Referral to drug and/or alcohol counseling or rehabilitation programs;
2. Referral to employee assistance programs;
3. Referral to appropriate law enforcement officials for prosecution;
4. Removal from safety-sensitive functions;
5. Employment actions, up to and including termination of employment; and/or
6. Any other form of disciplinary sanction deemed appropriate by RMA.

SEC. 4. DRUG-FREE AWARENESS PROGRAM

The Superintendent shall establish, as needed, a drug-free awareness program complying with legal requirements. The program shall provide relevant information to employees in the following areas:

1. The dangers of drug use and abuse in the workplace.
2. RMA's drug-free workplace policy.
3. Counseling, rehabilitation, and other assistance programs available to employees in the community, if any.
4. Consequences on employment for violating RMA's drug use and abuse prohibitions.

The employee shall be responsible for all fees or charges related to drug/alcohol counseling or rehabilitation, if any.

SEC. 5. TOBACCO USE

RMA further intends to provide a tobacco-free environment for employees and students. Smoking (including, but not limited to cigarettes, cigars, and pipes) and the use of tobacco by employees is prohibited on all RMA-owned property, in RMA-owned vehicles, and while supervising students during school-related events.

RMA also prohibits the use of any "vapor products"—meaning electronic cigarettes (e-cigarettes) or any other device that uses a mechanical heating element, battery, or electronic circuit to deliver vapor that may include nicotine to the individual inhaling from the device; any substance used to fill or refill the device-cigarette; inhalants; electronic cigarette devices; and/or other devices or paraphernalia used with vapor products, other inhalants, or chemicals—at all times on RMA property, at any RMA event or activity (whether or not on school property), or in RMA vehicles.

An employee who violates this tobacco use policy is subject to disciplinary action, up to and including termination from employment.

PG-4.303 PSYCHOTROPIC DRUGS AND MEDICAL EVALUATIONS

An RMA officer or employee shall not:

1. Recommend to a student or a parent that the student use a psychotropic drug;
2. Suggest any particular diagnosis; or
3. Preclude a student from attending a class or participating in a school-related activity because of the parent's refusal to consent to the administration of a psychotropic drug to a student or to a psychiatric evaluation or examination of a student.

"Psychotropic drug" means a substance that is used in the diagnosis, treatment, or prevention of a disease or as a component of a medication and intended to have an altering effect on perception, emotion, or behavior.

This policy does not prevent an RMA officer or employee from:

1. Making an appropriate referral under Child Find;
2. Recommending that a child be evaluated by an appropriate medical practitioner, if the employee is a registered nurse, advanced nurse practitioner, physician, or certified or appropriately credentialed mental health professional; or
3. Discussing any aspect of a child's behavior or academic progress with the child's parent or other RMA officer or employee, as appropriate.

Education Code 38.016.

PG-4.304 CONFIDENTIALITY OF MEDICAL RECORDS

RMA shall strive to protect the privacy of employees' medical information to the greatest extent possible.

SEC. 1. "MEDICAL INFORMATION" DEFINED

"Medical information" is any information, data, or documentation relating to an employee's mental or physical condition. The term includes, but is not limited to:

1. Oral, written, or digital information concerning an employee's mental or physical condition;
2. Medical records;
3. Dental records;
4. Disability records;
5. Workers' compensation records;
6. Medical leave records;
7. Genetic information;
8. Health insurance information; and/or
9. Information concerning visits or payments to any health care professional, hospital, emergency room, or other type of short- or long-term health care facility.

SEC. 2. CONFIDENTIALITY OF RECORDS

Any medical information concerning employees will be maintained in separate, confidential medical files apart from regular personnel records. Only employees authorized by the Superintendent may access such files.

Employees are hereby notified that medical information concerning employees is absolutely confidential under state and federal laws and may not be discussed at any time with any person under any circumstances, unless:

1. An employee needs to do so in order to carry out his or her job duties, or
2. The person discussing the information is talking or otherwise communicating with the subject of the information at that person's invitation.

If an employee is concerned about a possible medical condition on the part of another employee, the employee must not discuss such concern with anyone other than his or her Principal or immediate supervisor.

SEC. 3. POLICY VIOLATIONS

Any employee who is found to have discussed medical information concerning another employee with anyone else in violation of this policy, or who is found to have released such information without authorization, will be subject to severe disciplinary action, up to and possibly including immediate termination from employment. Such an employee may also be subject to both civil and criminal action in a court of law under state and federal law.

PG-4.305 EMPLOYEE SEARCHES

SEC. 1. EMPLOYEE SEARCHES

RMA reserves the right to conduct searches to monitor compliance with rules concerning safety of employees, security of RMA and individual property, drugs and alcohol, and possession of other prohibited items.

"Prohibited items" include illegal drugs, alcoholic beverages, prescription drugs or medications not used or possessed in compliance with a current valid prescription, weapons, any items of an obscene, harassing, demeaning, or violent nature, and any property in the possession or control of an employee who does not have authorization from the owner of such property to possess or control the property.

"Control" means knowing where a particular item is, having placed an item where it is currently located, or having any influence over its continued placement.

In addition to RMA premises, RMA may search employees, their work areas, lockers, personal vehicles if driven or parked on RMA property, and other personal items such as bags, purses, briefcases, backpacks, lunch boxes, and any and all other containers.

SEC. 2. NO EXPECTATION OF PRIVACY

There is no general or specific expectation of privacy in the RMA workplace, either on RMA property or while on duty. In general, employees should assume that what they do while on duty or on RMA property is not private. All employees and all of the areas listed above are subject to search at any time. The areas in question may be searched at any time, with or without the employee being present. As a general rule, with the exception of items relating to personal hygiene or health, no employee should ever bring anything to work or store anything at work that he or she would not be prepared to show and possibly turn over to RMA officials and/or law enforcement authorities.

SEC. 3. LOCKERS AND OTHER STORAGE AREAS

If an employee uses a locker or other storage area at work, including a locking desk drawer or locking cabinet, RMA will either furnish the lock and keep a copy of the key or combination, or else allow the employee to furnish a personal lock. If the employee uses a personal lock, he or she must provide a copy of the key or combination to RMA.

SEC. 4. APPLICABILITY OF POLICY

All RMA employees are subject to this policy. However, any given search may be restricted to one or more specific individuals, depending upon the situation. Searches may be done on a random basis, or based upon reasonable suspicion. "Reasonable suspicion" means circumstances suggesting to a reasonable person that there is a possibility that one or more individuals may be in possession of a prohibited item, as defined above.

Any search under this policy will be done in a manner protecting employee privacy, confidentiality, and personal dignity to the greatest extent possible. RMA will respond severely to any unauthorized release of information concerning individual employees.

No employee will ever be physically forced to submit to a search. However, an employee who refuses to submit to a search request by RMA will face disciplinary action, up to and possibly including immediate termination of employment.

SEC. 5. VIDEO SURVEILLANCE

In order to promote the safety of RMA employees, students, and visitors, as well as the security of its facilities, RMA may conduct video surveillance of any portion of its premises at any time. The only areas excepted from video surveillance are private areas of restrooms, showers, and dressing rooms. All video cameras will be positioned in appropriate places in and around RMA buildings and used to promote the safety and security of people and property.

PG-4.306 WORKERS' COMPENSATION

As permitted by state law, RMA provides workers' compensation benefits to employees who suffer a work-related illness or personal injury due to accidents arising out of their employment with RMA. These benefits are paid for entirely by RMA and help pay for medical treatment and make up for part of the income lost while recovering. All work-related illnesses, accidents, or injuries should be reported immediately to the employee's supervisor and the Superintendent. Employees who suffer a work-related injury or illness, and who must be off work due to such injury or illness, shall be governed by applicable provisions of the Workers' Compensation Act (the "WCA") and the federal Family and Medical Leave Act (the "FMLA") where applicable.

The Superintendent shall develop procedures to implement RMA's Workers Compensation program, including procedures for requesting and use of leave benefits, injury reporting requirements, return to work and reinstatement procedures, absence control procedures, and any other procedure necessary to effectuate the WCA as required by law

SEC. 1. MANDATORY REQUIREMENTS

Workers' Compensation Insurance covers all employees during the time they are on the job.

1. Covered injuries and illnesses may be physical or mental and specific or cumulative.
2. An injury is considered job-related when it arises out of and in the course and scope of employment.
3. The activity that caused the injury must also be an activity that is in the course and scope of employment.

SEC. 2. DENIAL OF WORKERS' COMPENSATION INSURANCE BENEFITS

Except as otherwise required by state law, injuries not covered by Workers' Compensation Insurance include those where the employee:

1. Was intoxicated on alcohol or drugs.
2. Was in the process of committing a felony (and has been convicted).

3. Was participating in a social or recreational activity off-duty that was not directly related to his or her work.
4. Was commuting to or from work unless doing so under the direct control/orders of RMA on school-related business.
5. Caused the injury intentionally, or committed suicide.
6. Was "horsing around" or fighting on the job.
7. Violated a school safety policy or procedure.

If RMA denies a Workers' Compensation Insurance claim:

1. The employee may contest the decision in accordance with the provisions of the Workers' Compensation laws of the State of Texas.
2. All costs incurred by the employee in contesting a denial of the claim shall be the sole responsibility of the employee.
3. RMA is not obligated to make any commitments or statements pertaining to its liability concerning an employee's injury or illness.

SEC. 3. FRAUDULENT CLAIMS FOR WORKERS' COMPENSATION

Filing a false or fraudulent claim is a violation of law and **RMA**'s policy, and can result in disciplinary employment actions, including termination of employment.

SEC. 4. PROHIBITED DISCRIMINATION

RMA may not discharge or in any other manner discriminate against an employee because the employee has:

1. Filed a workers' compensation claim in good faith.
2. Hired a lawyer to represent the employee in a claim.
3. Instituted or caused to be instituted in good faith a proceeding under the Texas Workers' Compensation Act.
4. Testified or is about to testify in a proceeding under the Texas Workers' Compensation Act.

Labor Code 451.001.

a) WORKERS' COMPENSATION POLICY

1. **Purpose:** The purpose of this Workers' Compensation Policy is to establish guidelines and procedures for employees of RMA in the event of work-related illnesses, accidents, or injuries. This policy ensures compliance with state law, the Workers' Compensation Act (WCA), and the federal Family and Medical Leave Act (FMLA) where applicable.

2. **Coverage**: This policy applies to all employees of RMA who may suffer from work-related illnesses, accidents, or injuries during the course of their employment.

3. **Reporting Requirements:**
    a. All employees must immediately report any work-related illness, accident, or

injury to their supervisor and the Superintendent or his designee.
   b. In case of a medical emergency, employees should seek immediate medical attention and inform their supervisor and the Superintendent or his designee as soon as possible.

4. **Workers' Compensation Benefits:**
   a. RMA provides workers' compensation benefits to employees in accordance with state law.
   b. These benefits cover medical treatment expenses and partial income replacement for the duration of recovery.

5. **Leave Benefits and Governing Acts:**
   a. Employees who suffer a work-related injury or illness and require time off shall be governed by the provisions of the WCA and FMLA where applicable.
   b. Employees must adhere to the procedures outlined in this policy for requesting and using leave benefits.

5. **Procedures for Requesting and Using Leave Benefits:**
   a. Employees must promptly notify their supervisor of their need for leave due to a work-related injury or illness.
   b. Employees should submit a written request for leave, including necessary medical documentation, to the Human Resources department.
   c. Human Resources will review, and process leave requests in accordance with applicable laws and regulations.

6. **Return to Work and Reinstatement Procedures:**
   a. Employees are expected to provide timely notice of their readiness to return to work after recovering from a work-related injury or illness. Some work-related injuries and/or illnesses may require a medical return to work notice.
   b. The company will provide reasonable accommodation, where possible, to facilitate the employee's return to work.
   c. Reinstatement procedures will be in accordance with applicable laws and RMA policies.

7. **Absence Control Procedures:**
   a. RMA will monitor absences related to work-related injuries or illnesses to ensure compliance with applicable laws and policies.
   b. Excessive or unexplained absences may be subject to further review and management action.

8. **Compliance with Laws:** All procedures outlined in this policy are designed to fulfill the WCA as required by state law.

9. **Review and Update:** This policy will be periodically reviewed and updated as necessary to ensure compliance with changing laws and regulations.

10. **Questions and Assistance:** Employees with questions or in need of assistance regarding

this policy should contact the Human Resources department.

This Workers' Compensation Policy is effective and supersedes any previous policies on this subject.

4.401 WAGE AND HOUR LAWS

SEC. 1. FAIR LABOR STANDARDS ACT

a) Classification of Positions

The Superintendent or designee shall determine the classification of positions or employees as "exempt" or "nonexempt" for purposes of payment of overtime in compliance with the Fair Labor Standards Act (FLSA).

b) Exempt

RMA shall pay employees who are exempt from the overtime pay requirements of the FLSA on a salary basis. The salaries of these employees are intended to cover all hours worked, and RMA shall not make deductions that are prohibited under the FLSA or state law.

Exempt employees (excluding teachers) are paid on a salaried basis, and their salary is not reduced for absences of less than one full day.

An employee who believes deductions have been made from his or her salary in violation of this policy should bring the matter to RMA's attention, through the RMA complaint process. If improper deductions are confirmed, RMA will reimburse the employee and take steps to ensure future compliance with the FLSA.

The Superintendent or designee may assign noncontractual supplemental duties to personnel exempt under the FLSA, as needed. The employee may be compensated for these assignments according to RMA's compensation plans.

c) Nonexempt

Nonexempt employees may be compensated on an hourly basis or on a salary basis. Employees who are paid on an hourly basis shall be compensated for all hours worked. Employees who are paid on a salary basis are paid for a 40-hour workweek and do not earn additional pay unless the employee works more than 40 hours.

A nonexempt employee shall have the approval of his or her supervisor before working overtime. An employee who works overtime without prior approval is subject to discipline, up to and including termination, but shall be compensated in accordance with the FLSA.

d) Minimum Wage and Overtime

Unless an exemption applies, RMA shall pay each of its employees not less than minimum wage for all hours worked and for exempt employees, in accordance with the minimum salary basis requirements (except for instructional employees as defined in the FLSA).

Unless an exemption applies, RMA shall pay a non-exempt employee not less than one and one-half times the employee's regular rate of pay for all actual hours worked in excess of forty in any workweek.

e) Workweek Defined

For purposes of FLSA compliance, the workweek for school employees shall be 8:00 a.m. Monday until Friday 5:00 p.m.

SEC. 2. AND HOUR RECORDS

RMA shall maintain and preserve payroll or other records for nonexempt employees containing the information required by the regulations under the FLSA. Records shall also be kept in accordance with applicable State record retention schedules.

SEC. 3. COMPLIANCE WITH FEDERAL AND STATE WAGE AND HOUR LAWS

RMA shall take all reasonable steps to ensure that employees receive the correct amount of pay in each paycheck and that employees are paid promptly on the scheduled paydays and in accordance with Federal and State Wage and Hour Laws including the FLSA and the Texas Payday Act. The Superintendent or designee shall adopt procedures to ensure that RMA complies with applicable Federal and State Wage and Hour Laws.

PG-4.501 EMPLOYEE ATTENDANCE

SEC. 1. ATTENDANCE

RMA expects all employees to conduct themselves in a professional manner during their employment. This includes practicing good attendance habits. All employees should regard coming to work on time, working their shift as scheduled, and arriving and leaving at the scheduled time as essential functions of their jobs.

RMA has established the following policies for employee attendance:

1. Employees should arrive to work and be at their assigned duty station no later than their scheduled start time.
2. Employees should remain at their duty station unless the needs of the job require being elsewhere or as authorized by their supervisor, except during authorized breaks.
3. Employees should take only the time normally allowed for breaks as authorized by their supervisor.
4. Non-salaried/non-exempt employees should leave promptly at the end of their scheduled workday, unless given permission by their supervisor to work past that time.

5. Employees should call in and personally notify a supervisor if they will be absent or tardy, unless a verifiable emergency makes it impossible to do so.
6. In addition to any time clock or time-recording system RMA may implement, time keeping for non-exempt employees must be done weekly and manually using RMA's approved time sheets.

SEC. 2. NOTICE OF ABSENCE OR TARDINESS

Absence or tardiness may be excused under exceptional circumstances, but generally only if an employee provides prior written notice of the need to be absent or tardy. Such advance notice is necessary so that other arrangements can be made to cover the employee's responsibilities, if necessary.

The Superintendent or designee and Human Resources Department shall develop procedures concerning employee absence and tardiness. These procedures shall be distributed to all employees; this distribution may be through the RMA Employee Handbook.

SEC. 3. EMPLOYEE WORK SCHEDULES

The Superintendent or designee and Human Resources Department shall see that work schedules are developed and distributed for each position with RMA.

SEC. 4. JOB ABANDONMENT

An employee who is absent without notice for three or more consecutive days shall be considered as having abandoned his or her job; RMA shall process the employee's work separation as a voluntary resignation without good cause related to the work.

PG-4.502 VACATION AND SICK LEAVE

SEC. 1. PERSONAL LEAVE

RMA does not directly participate in the State Personal Leave Program or provide or recognize "State Days" under Education Code, Chapter 22; therefore, accumulated state personal leave days from other Texas School Districts or public schools may not be transferred in or out of the RMA system.

f) Local Personal Leave

x. *Eligibility for Local Personal Leave.*

Each full-time employee, whether working in an exempt or non-exempt position, will be granted local personal leave starting in August of each school year.
An employee hired between August 1 and December 31 will receive all local leave days designated for their position.
An employee hired between January 1 and April 30 will receive half of the local leave days

designated for their position.
An employee hired between May 1 and July 31 will receive zero (0) local leave days designated for their position.

Days	Paid Leave Amount	Accrual
230 - 215	12	Not Eligible
200 - 210	11	Not Eligible
185 - 195	10	Not Eligible

Exempt employees must use leave in ½-day increments.

Part time and temporary employees are not eligible for Local Personal Leave.

g) *Executive Leadership Team Leave.*

The Executive Leadership team is made up of the Superintendent, Executive Director of Instructional Operations, Chief Financial Officer and Executive Director of Instructional Technology, Grants and Expansion. The Executive Leadership team will receive two weeks of vacation per year in addition to Local Personal Leave days, to be taken at such time deemed appropriate.

These employees are salaried employees who must be available at such times of the year when workloads are heavy in support of district missions. The vacation time may be taken in consecutive days or it may be split up.

h) *Medical Certification*

Any employee who is absent more than three days because of a personal or family illness must submit a medical certification from a qualified health care provider confirming the specific dates of the illness, the reason for the illness, and – in the case of personal illness – the employee's fitness to return to work.

i) *Forfeiture of Leave*

Local Leave does not accumulate or roll forward from year to year, and is forfeited upon resignation, retirement, or termination from employment.

SEC. 4. BEREAVEMENT LEAVE

In the event of the death of an employee's immediate family member, RMA will provide five days of paid leave. In the event of the death of an employee's extended family member, RMA will provide three days of paid bereavement leave.

For the purpose of this policy, an "immediate family member" includes the following: spouse, child/step-child, parent/step-parent, grandparent/step-grandparent, grandchild/step-grandchild, sibling/step-sibling, spouse's parent, spouse's grandparent, daughter-in-law, son-in-law, brother or sister-in-law, any family member residing in the employee's home.

For the purpose of this policy, “extended family” includes the following: first cousin, aunt, uncle, niece, nephew, spouse’s aunt/uncle, spouse’s niece/nephew.

No more than five paid bereavement days will be used for this purpose in any one school year unless otherwise approved by the Superintendent or designee.

SEC. 5. RELIGIOUS OBSERVANCES

An employee requesting to attend a religious observance on a regularly scheduled school day may use Personal Leave. In the event that all Personal Leave has been used, deductions from the employee’s salary shall be made on the basis of the employee’s daily rate of pay in accordance with applicable law.

SEC. 6. JURY DUTY AND OTHER COURT APPEARANCES

RMA will pay full time employees their normal daily compensation for each regularly scheduled workday on which the employee serves in any phase of jury service provided the employee surrenders his or her jury service payments to RMA. This compensation for jury service is available to all full-time staff for up to ten (10) working days per school year.

An employee selected for jury duty must notify his or her supervisor within 48 hours of receiving the court’s notice or summons. The employee must also present documentation of jury service to his or her supervisor.

RMA shall not discharge, threaten to discharge, intimidate, or coerce any permanent employee because the employee serves as a juror or grand juror, or for the employee's attendance or scheduled attendance in connection with the service, in any court in the United States.

An employee who receives a court subpoena to provide testimony in a civil or criminal proceeding to which the employee is not a party shall submit documentation of the subpoena to Human Resources within 48 hours of receipt of the court subpoena. The employee must present documentation of appearance and surrender any witness fee or other court compensation for the appearance before he or she will receive approval for paid leave. RMA will pay all full-time employees their normal daily compensation for each regularly scheduled workday on which the employee serves for appearance in a court order or subpoena. This compensation is available to all full-time staff for up to four (4) working days per school year.

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If the employee is a party to any civil or criminal litigation and is court-ordered or subpoenaed for court appearances, the employee’s court attendance shall not be compensated and the employee must arrange for time off without pay or use local personal leave for such appearances.

RMA shall not discharge, threaten to discharge, intimidate, or coerce any permanent employee because the employee serves as a juror or grand juror, or for the employee's attendance or scheduled attendance in connection with the service, in any court in the United States.

SEC. 7. VOTING LEAVE

Any employee who does not have two consecutive non-work hours while the polls are open on

election day will be given up to two hours off with pay in order to vote, unless more time is required by state law. The employee should notify the appropriate supervisor before Election Day if time off is needed, so that the timing of the employee's absence can be pre-arranged.

SEC. 8 LIMITATIONS ON LEAVES OF ABSENCE

With the exception of leaves of absence for military duty, peace officer leave, or approved leave under the Family and Medical Leave Act, if an employee accumulates more ten days of absence after exhausting all available paid and unpaid leave, the employee shall be separated due to unavailability for work, subject to any reasonable accommodation duties RMA may have under the Americans with Disabilities Act (ADA) or similar law. Any employee separated for unavailability for work following exhaustion of all available leave will be eligible for rehire and will be able to apply for any vacancies that may exist at any given time, depending upon qualifications and availability of job openings.

PG-4.503 MILITARY LEAVE – FEDERAL LAW

SEC. 1. EMPLOYEE MILITARY LEAVE

Any RMA employee who is absent from employment due to voluntary or involuntary service in the uniformed services is entitled to certain rights and benefits under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) if:

1. The employee (or an appropriate officer of the uniformed service in which the employee serves) has provided written or verbal notice of such military notice to RMA (unless notice cannot be given because of military necessity or is unreasonable or impossible to provide);
2. The cumulative length of the absence and all previous absences from employment with RMA does not exceed five years; and
3. The employee reports to or submits an application for reemployment to RMA and applies with all other applicable requirements.

For purposes of leave under USERRA, "uniformed service" means the Armed Forces; the Army National Guard, and the Air National Guard when an individual is engaged in active duty for training, inactive duty training, or full-time National Guard duty; the commissioned corps of the Public Health Services; and any other category of persons designated by the President of the United States in time of war or emergency.

The term "service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty; active duty for training; initial active duty for training; inactive duty training; full-time National Guard duty; state active duty for a period of 14 days or more; state active duty in response to a national emergency declared by the president under the National Emergencies Act, 50 U.S.C. 1601 et seq.; state active duty in response to a major disaster declared by the president under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5170; a period for which a person is absent from a position of employment for the purpose of an

examination to determine the fitness of the person to perform any such duty; a period for which a system member of the National Urban Search and Rescue Response System is absent from a position of employment due to an appointment into federal service under Section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; and a period for which a person is absent from employment for the purpose of performing funeral honors duty.

The term "state active duty" means training or other duty, other than inactive duty, performed by a member of the National Guard of a state not under 32 U.S.C. 502 or under U.S.C. Title 10; in service to the governor of a state; and for which the member is not entitled to pay from the federal government.

A person who is re-employed by RMA under USERRA is entitled to the seniority and other rights and benefits that he or she held on the date that uniformed service commenced, plus the additional seniority, rights, and benefits that would have been attained had he or she remained continuously employed.

38 SC 4303(13), (15)-(16), 4316(a).

A. Exception

RMA is not required to re-employ an employee if:

1. Circumstances at RMA have changed so as to make re-employment impossible or unreasonable;
2. The re-employment of the employee would cause undue hardship for RMA;
3. The employment with RMA from which the employee leaves to perform uniformed service is for a brief, nonrecurrent period and there is no reasonable expectation that employment with RMA will continue indefinitely or for a significant period; or
4. The employee is separated from uniformed service with a dishonorable or bad conduct discharge, under other than honorable conditions, or in other circumstances outlined in federal regulation at 20 C.F.R. § 1002.135.

38 .S.C. 4312(d).

B. Termination of Leave Entitlement

An employee's entitlement to USERRA leave by reason of the service of such person in one of the uniformed services terminates upon the occurrence of any of the following events:

1. Separation from uniformed service with a dishonorable or bad conduct discharge;
2. Separation from uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the U.S. secretary concerned; or
3. Dismissal permitted under or a dropping from the rolls pursuant to 10 U.S.C. 1161(a) (dismissal of commissioned officers).

38 U.S.C. 4304.

PG-4.504 FAMILY AND MEDICAL LEAVE

SEC. 1. GENERAL PROVISIONS

a) Family and Medical Leave

The Family and Medical Leave Act ("FMLA") provides eligible employees with unpaid leave for certain family and medical reasons during a 12-month period. During this leave, employees are entitled to continue group health plan coverage as if they had continued to work. At the conclusion of the leave, subject to some exceptions, employees generally have the right to return to the same or an equivalent position, equivalent pay, benefits and working conditions.

b) Employment Eligibility Criteria

An "eligible employee" is one who:

Has been employed by RMA for at least 12 months (which need not be consecutive);
Has been employed by RMA for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave; and
Works at a RMA facility where at least 50 employees are employed within 75 miles.

i. Events Entitling Employees to FMLA Leave

An eligible employee shall be entitled to FMLA leave for one or more of the following:

1. For the birth of a son or daughter of the employee and to care for the newborn child.
2. For placement of a son or daughter with the employee for adoption or foster care.
3. To care for the employee's spouse, son or daughter, or parent with a serious health condition.
4. Because of a serious health condition that makes the employee unable to perform the functions of his or her position.
5. Because of any Qualified Exigency (defined below) arising out of the fact that the employee's spouse, son or daughter, or parent is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.
6. To care for a covered servicemember with a serious injury or illness incurred in the line of duty if the employee is the spouse, son, daughter, parent, or next of kin of the servicemember.

ii. Qualifying Exigency FMLA Leave

An eligible employee may take FMLA leave for one or more of the following qualifying exigencies:

1. Short-notice deployment.
2. Military events and related activities.
3. Childcare and school activities.

4. Financial and legal arrangements.
5. Counseling.
6. Rest and recuperation.
7. Post-deployment activities.
8. Parental care.
9. Additional activities, provided that RMA and the employee agree that the leave shall qualify as an exigency and agree to both the timing and duration.

iii. Pregnancy or Birth

Both parents are entitled to FMLA leave to be with a healthy newborn child (i.e., bonding time) during the 12-month period beginning on the date of birth. In addition, the expectant mother is entitled to FMLA leave for incapacity due to pregnancy, for prenatal care, or for her own serious health condition following the birth of the child. The expectant mother is entitled to leave for incapacity due to pregnancy even though she does not receive treatment from a health-care provider during the absence and even if the absence does not last for more than three consecutive calendar days. A spouse is entitled to FMLA leave if needed to care for a pregnant spouse who is incapacitated, during her prenatal care, or following the birth of a child if the spouse has a serious health condition.

SEC. 2. LEAVE ENTITLEMENT AND USE

a) Maximum Amount of FMLA Leave Within a 12-Month Period

Except in the case of military caregiver leave, an eligible employee's FMLA leave entitlement is limited to a total of 12 workweeks of leave during a 12-month period for any one or more of the qualifying reasons.

Spouses who are employed by RMA may be limited to a combined total of 12 workweeks of leave during any 12-month period if the leave is taken for birth of a son or daughter, the placement of a child for adoption or foster care, or to care for a parent with a serious health condition. Each spouse may be entitled to additional FMLA leave for other FMLA-qualifying reasons, but not more than a total of 12 workweeks per person.

b) Determining the 12-Month Period

Except with respect to military caregiver leave, RMA may choose any one of the following methods for determining the "12-month period" in which the 12 weeks of leave entitlement occurs:

The 12-month period measured forward from the date any employee's first FMLA leave begins.

1. The calendar year;
2. Any fixed 12-month "leave year," such as a fiscal year or a year starting on an employee's "anniversary date";
3. The 12-month period measured forward from the date any employee's first FMLA

leave begins; or

4. A "rolling" 12-month period measured backward from the date an employee uses any FMLA leave.

i. Military Caregiver Leave

In the case of military caregiver leave, an eligible employee's FMLA leave entitlement is limited to a total of 26 workweeks of leave during a "single 12-month period." The "single 12-month period" is measured forward from the date an employee's first FMLA leave to care for the covered servicemember begins, regardless of the method used by RMA to determine the 12-month period for other FMLA leaves. During the "single 12-month period," an eligible employee's FMLA leave entitlement is limited to a combined total of 26 workweeks of FMLA leave for any qualifying reason.

Spouses who are employed by RMA may be limited to a combined total of 26 weeks of FMLA leave during the "single 12-month period" if leave is taken as military caregiver leave, for the birth of a son or daughter, for the placement of a child for adoption or foster care, or to care for a parent with a serious health condition.

ii. Summer Vacation and Other Extended Breaks

If RMA's activity temporarily ceases and employees generally are not expected to report for work for one or more weeks – e.g., a school closing for Spring Break or for the Christmas/New Year holiday – those days do not count against an employee's FMLA leave entitlement. Similarly, the time during summer vacation when the employee is not required to report to work does not count against the employee's FMLA leave entitlement.

c) ***Intermittent or Reduced Work Schedule Leave***

FMLA leave may be taken intermittently or on a reduced leave schedule under certain circumstances. "Intermittent leave" is FMLA leave taken in separate blocks of time due to a single qualifying reason. A "reduced leave schedule" is a leave schedule that reduces an employee's usual number of working hours per workweek, or hours per workday.

For leave taken because of the employee's own serious health condition, to care for a parent, son, or daughter with a serious health condition, or military caregiver leave, there must be a medical need for leave, and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. Leave due to a qualifying exigency may also be taken on an intermittent or reduced schedule basis.

When leave is taken after the birth of a healthy child or placement of a healthy child for adoption or foster care, an employee may take leave intermittently, or on a reduced leave schedule, only if RMA agrees.

i. *Transfer to an Alternative Position*

If an employee requests intermittent or reduced schedule leave that is foreseeable based on

planned medical treatment, RMA may require the employee to transfer temporarily to an available alternative position for which the employee is qualified, and which better accommodates recurring periods of leave than does the employee's regular position.

ii. Calculating Leave Use

When an employee takes leave on an intermittent or reduced schedule, only the amount of leave actually taken may be counted toward the employee's leave entitlement. RMA must account for intermittent or reduced schedule leave using an increment no greater than the shortest period of time that RMA uses to account for use of other forms of leave, provided the increment is not greater than one hour.

d) Special Rules for Instructional Employees

Special rules affect leave taken intermittently or on a reduced schedule, or taken near the end of an academic term (semester) by instructional employees.

"Instructional employees" are those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. It does not include teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include auxiliary personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.

i. Failure to Provide Notice of Foreseeable Leave

If an instructional employee does not give required notice of foreseeable leave to be taken intermittently or on a reduced schedule, RMA may require the employee to take leave of a particular duration or to transfer temporarily to an alternative position. Alternatively, RMA may require the employee to delay the taking of leave until the notice provision is met.

ii. Twenty Percent Rule

If an eligible instructional employee needs intermittent leave or leave on a reduced leave schedule to care for a family member with a serious health condition, to care for a covered servicemember, or for the employee's own serious health condition; the leave is foreseeable based on planned medical treatment; and the employee would be on leave for more than 20% of the total number of working days over the period the leave would extend, RMA may require the employee to choose:

1. To take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
2. To transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.

"Periods of a particular duration" means a block or blocks of time beginning no earlier than the first day for which leave is needed and ending no later than the last day on which leave is needed, and may include one uninterrupted period of leave. If an employee chooses to take leave for "periods of a particular duration" in the case of intermittent or reduced schedule leave, the entire period of leave taken will count as FMLA leave.

iii. Leave at the End of a Semester

As a rule, RMA may not require an employee to take more FMLA leave than the employee needs. The FMLA recognizes exceptions where instructional employees begin leave near the end of a semester. As set forth below, RMA may in certain cases require the employee to take leave until the end of the semester.

The school semester, or "academic term," typically ends near the end of the calendar year and the end of spring each school year. In no case may RMA have more than two academic terms or semesters each year for purposes of the FMLA.

If RMA requires the employee to take leave until the end of the semester, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. Any additional leave required by RMA to the end of the semester is not counted as FMLA leave; however, RMA shall maintain the employee's group health insurance and restore the employee to the same or equivalent job, including other benefits, at the end of the leave.

iv. More than Five Weeks Before the End of the Semester

RMA may require an instructional employee to continue taking leave until the end of the semester if:

1. The employee begins leave more than five weeks before the end of the semester;
2. The leave will last at least three weeks; and
3. The employee would return to work during the three-week period before the end of the semester.

v. During the Last Five Weeks of the Semester

RMA may require an instructional employee to continue taking leave until the end of the semester if:

1. The employee begins leave during the last five weeks of the semester for any reason other than the employee's own serious health condition or a qualifying exigency;
2. The leave will last more than two weeks; and
3. The employee would return to work during the two-week period before the end of the semester.

vi. During Last Three Weeks of the Semester

RMA may require an instructional employee to continue taking leave until the end of the semester if the employee begins leave during the three-week period before the end of the semester for any reason other than the employee's own serious health condition or a qualifying exigency.

e. Substitution of Paid Leave Time

Generally, FMLA leave is unpaid leave. However, an employee may choose to substitute accrued paid leave for unpaid FMLA leave. If an employee does not choose to substitute accrued paid leave, RMA may require the employee to do so. The. term "substitute" means that the paid leave provided by RMA, and accrued pursuant to established policies of RMA, will run concurrently with the unpaid FMLA leave. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of RMA normal leave policy.

i. FMLA and Workers' Compensation

A serious health condition may result from injury to the employee "on or off" the job. If RMA designates the leave as FMLA leave, the leave counts against the employee's FMLA leave entitlement. Because the workers' compensation absence is not unpaid, neither the employee nor RMA may require the substitution of paid leave. However, RMA and an employee may agree, where state law permits, to have paid leave supplement workers' compensation benefits.

If the health-care provider treating the employee for the workers' compensation injury certifies that the employee is able to return to a "light duty job" but is unable to return to the same or equivalent job, the employee may decline RMA's offer of a "light duty job." As a result, the employee may lose workers' compensation payments, but is entitled to remain on unpaid FMLA leave until the employee's FMLA leave entitlement is exhausted. As of the date workers' compensation benefits cease, the substitution provision becomes applicable and either the employee may elect or RMA may require the use of accrued paid leave.

f) Maintenance of Health Benefits

During any FMLA leave, RMA must maintain the employee's coverage under any group health plan on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period.

An employee may choose not to retain group health plan coverage during FMLA leave. However, when the employee returns from leave, the employee is entitled to be reinstated on the same terms as before taking leave without any qualifying period, physical examination, exclusion of pre-existing conditions, and the like.

i. <u>Payment of Premiums</u>

During FMLA leave, the employee must continue to pay his or her share of group health plan premiums. If premiums are raised or lowered, the employee would be required to pay the new premium rates.

ii. Failure to Pay Premiums

Unless RMA has an established policy providing a longer grace period, RMA obligations to maintain health insurance coverage cease if an employee's premium payment is more than 30 days late. In order to terminate the employee's coverage, RMA must provide written notice to the employee that the payment has not been received. Such notice must be mailed to the employee at least 15 days before coverage is to cease, advising that coverage will be dropped on a specified date at least 15 days after the date of the letter unless the payment has been received by that date. Coverage for the employee may be terminated at the end of the 30-day grace period, if the required 15-day notice has been provided.

Upon the employee's return from FMLA leave, RMA must still restore the employee to coverage/benefits equivalent to those the employee would have had if leave had not been taken and the premium payment(s) had not been missed. The employee may not be required to meet any qualification requirements imposed by the plan, including any new preexisting condition waiting period, to wait for an open season, or to pass a medical examination to obtain reinstatement of coverage.

iii. Recovery of Benefit Cost

If an employee fails to return to work after FMLA leave has been exhausted or expires, RMA may recover from the employee its share of health plan premiums during the employee's unpaid FMLA leave, unless the employee's failure to return is due to one of the reasons set forth in the regulations. RMA may not recover its share of health insurance premiums for any period of FMLA leave covered by paid leave.

g) Right to Reinstatement

On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when leave began, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to reinstatement even if the employee has been replaced or his or her position has been restructured to accommodate the employee's absence. However, an employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period.

i. Moonlighting During FMLA Leave

The Superintendent and/or designee may develop a uniformly applied policy governing outside or supplemental employment during FMLA leave. If the Superintendent/and or designee does not develop such a policy, RMA may not deny FMLA benefits on the basis of outside or supplemental employment unless the FMLA leave was fraudulently obtained.

ii. Reinstatement

The Superintendent and/or designee shall develop a policy governing the determination of how an employee is to be restored to "an equivalent position" upon return from FMLA leave. Such a policy must be in writing, must be made known to the employee before the taking of FMLA leave, must clearly explain the employee's restoration rights upon return from leave, and must provide substantially the same protections as provided in the FMLA.

Family and Medical Leave Act (FMLA) Restoration Policy

Policy Statement: RMA is committed to supporting employees who need to take Family and Medical Leave Act (FMLA) leave for qualifying reasons and ensuring their seamless return to the workforce. This policy outlines the procedures and expectations for the restoration of employees to an equivalent position upon their return from FMLA leave, in compliance with the FMLA regulations.

Scope: This policy applies to all eligible employees of RMA who are entitled to FMLA leave under federal law.

Policy Objectives:
Notification and Communication: Employees intending to take FMLA leave must notify their supervisor and the Human Resources Department as soon as practicable and follow the standard leave request procedure.

Upon receiving notice of the need for FMLA leave, RMA will provide the employee with information about their rights and responsibilities under FMLA, including the restoration process.

Equivalent Position: Upon the employee's return from FMLA leave, RMA will make reasonable efforts to reinstate the employee to their original position or an equivalent position with equivalent pay, benefits, and working conditions.

If the employee's original position is unavailable, RMA will place the employee in a substantially similar position that meets their skills and abilities.

Communication of Restoration Rights: RMA will provide written communication to employees detailing their restoration rights under FMLA before they begin their leave, or within five business days, whichever is sooner.

The communication will include information on the employee's entitlement to return to the same or an equivalent position, the benefits they will receive upon their return, and any changes in their employment status.

Coordination with Other Benefits: RMA will ensure that any benefits provided to employees during their FMLA leave will be reinstated upon their return in accordance with the FMLA guidelines.

Procedures:
Employee Notice: Employees must provide notice of their intent to take FMLA leave in accordance with company policies.

HR will promptly respond with FMLA leave designation and provide written information on restoration rights.

Communication of Restoration Rights: HR will provide written communication to the employee outlining their restoration rights, including details on reinstatement to the same or an equivalent position.

Equivalent Position Determination: HR, in consultation with the employee's supervisor, will determine the availability of the original position or an equivalent position based on business needs and the employee's qualifications.

Timely Restoration: RMA will make reasonable efforts to restore employees to their positions promptly upon their return from FMLA leave.

Non-Retaliation: RMA strictly prohibits retaliation against any employee for taking FMLA leave or exercising their rights under this policy. Any form of retaliation will be subject to disciplinary action, up to and including termination.

Review and Updates: This policy will be reviewed periodically and updated as necessary to ensure compliance with FMLA regulations and any changes in company practices.

Contact Information: For questions or concerns regarding this policy, please contact the Human Resources Department at 830-557-6181 opt. 3, or hr@rma-tx.org

Acknowledgment: I acknowledge that I have received, read, and understand RMA's FMLA Restoration Policy.

Pay Increases and Bonuses

An employee is entitled to any unconditional pay increases that may have occurred during the FMLA leave period, such as cost of living increases. Pay increases conditioned upon seniority, length of service, or work performed must be granted in accordance with RMA policy or practice with respect to other employees on an equivalent leave status for a reason that does not qualify as FMLA leave.

Equivalent pay includes any bonus or payment, whether it is discretionary or non-discretionary. However, if a bonus or other payment is based on the achievement of a specified goal such as hours worked, products sold, or perfect attendance, and the employee has not met the goal due to FMLA leave, then the payment may be denied, unless otherwise paid to employees on an equivalent leave status for a reason that does not qualify as FMLA leave. For example, if an employee who used paid vacation leave for a non-FMLA purpose would receive the payment,

then an employee who used paid vacation leave for an FMLA-protected purpose also must receive the payment.

a. Key Employees

RMA may deny job restoration to a key employee, as that term is defined in law, if such denial is necessary to prevent substantial and grievous economic injury to the operations of RMA.

SEC. 3. NOTICES AND MEDICAL CERTIFICATION

a) Required Notices

The Superintendent shall ensure that a notice explaining the FMLA and containing information regarding the procedures for filing complaints with the Department of Labor's Wage and Hour Division is posted prominently at each campus where it is readily visible to employees and applicants for employment. The Superintendent shall also ensure that such notice is included in RMA's Employee Handbook and distributed to each new employee upon hiring.

If a significant portion of RMA's workforce is not literate in English, the Superintendent shall provide the general notice in a language in which the employees are literate.

The Superintendent may use Department of Labor form WHD 1420 or another form of notice, so long as the notice includes, at a minimum, all of the information contained in form WHD 1420.

i. *Eligibility Notice*

When an employee requests FMLA leave, or when RMA learns that an employee's leave may be for an FMLA-qualifying reason, the employee's immediate supervisor shall notify the employee of his or her eligibility to take FMLA leave. For purposes of this policy, the immediate supervisor of a teacher shall be the Principal. If the employee is not eligible for FMLA leave, the notice must explain why the employee is not eligible.

The employee's immediate supervisor shall provide the eligibility notice within five business days, absent extenuating circumstances. RMA shall translate the notice in any situation in which it is required to translate the general notice.

ii. *Rights and Responsibilities Notice*

RMA shall provide a written notice of rights and responsibilities each time an eligibility notice is provided to an employee. This notice must include the information required by 29 CFR 825.300(c)(1). The notice may be distributed electronically if it meets the other requirements of this section. RMA shall translate the notice in any situation in which it is required to translate the general notice.

iii. *Designation Notice*

When RMA has enough information to determine whether leave is being taken for an FMLA-qualifying reason, RMA must notify the employee whether the leave will be designated as FMLA leave. If RMA determines that the leave will not be designated as FMLA-qualifying, RMA must notify the employee of that determination. Absent extenuating circumstances, the designation notice must be provided within five business days. The notice must include the information required by 29 CFR 825.300(d)(1), (d)(3), and (d)(6). RMA shall translate the notice in any situation in which it is required to translate the general notice.

iv. *Retroactive Designation*

RMA may retroactively designate leave as FMLA leave, with appropriate notice to the employee, if RMA's failure to timely designate leave does not cause harm or injury to the employee. RMA and an employee may also agree that leave will retroactively be designated as FMLA leave.

b) Requests for FMLA Leave

An employee giving notice of the need for FMLA leave must state a qualifying reason for the leave and otherwise satisfy the requirements for notice of foreseeable and unforeseeable leave, as described below. The employee need not expressly assert rights under the Act or even mention the FMLA.

Employees should request FMLA leave by notifying the Human Resources Coordinator or designee, and must complete the Department of Labor's form WH-380-E (or WH-380-F as appropriate) made available from the Department of Labor or RMA's administrative offices. Completed forms should be returned to the Human Resources Coordinator.

i. *Foreseeable Leave*

An employee must provide his or her immediate supervisor at least 30 days' advance notice before FMLA leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, planned medical treatment for a serious health condition of the employee or of a family member, or the planned medical treatment for a serious injury or illness of a covered service member. If 30 days' notice is not practicable, the employee must give notice as soon as practicable, generally on the same day as or next business day after the reason for the leave is known. For leave due to a qualifying exigency, the employee must provide notice as soon as practicable regardless of how far in advance the leave is foreseeable.

When planning medical treatment, the employee must consult with his or her immediate supervisor and make a reasonable effort to schedule the treatment so as not to disrupt unduly RMA operations, subject to the approval of the health-care provider.

ii. *Unforeseeable Leave*

When the approximate timing of leave is not foreseeable, an employee must provide notice to his or her immediate supervisor as soon as practicable under the facts and circumstances of the

particular case. If an employee does not comply with usual notice and procedural requirements, and no unusual circumstances justify the failure to comply, FMLA leave may be delayed or denied.

iii. *Compliance with RMA Requirements*

RMA may require an employee to comply with its usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances. If an employee does not comply with usual notice and procedural requirements, and no unusual circumstances justify the failure to comply, FMLA leave may be delayed or denied.

c) Certification of Leave

RMA may require that an employee's FMLA leave be supported by certification, as described below. RMA shall give notice of a requirement for certification each time certification is required. At the time RMA requests certification, RMA must advise the employee of the consequences of failure to provide adequate certification.

i. *Timing*

In most cases, the employee's immediate supervisor will request certification at the time the employee gives notice of the need for leave or within five business days thereafter or, in the case of unforeseen leave, within five business days after the leave commences. RMA may request certification at a later date if RMA later has reason to question the appropriateness of the leave or its duration. The employee must provide the requested certification to his or her immediate supervisor within 15 calendar days after RMA's request, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

ii. *Incomplete or Insufficient Certification*

RMA shall advise an employee if it finds a certification incomplete or insufficient and shall state in writing what additional information is necessary to make the certification complete and sufficient. RMA must provide the employee with seven calendar days (unless not practicable under the particular circumstances despite the employee's diligent, good faith efforts) to cure any such deficiency.

A certification is "incomplete" if one or more of the applicable entries have not been completed. A certification is "insufficient" if it is complete, but the information provided is vague, ambiguous, or non-responsive. A certification that is not returned to RMA is not considered incomplete or insufficient, but constitutes a failure to provide certification.

iii. *Medical Certification of Serious Health Condition*

When leave is taken because of an employee's own serious health condition, or the serious health condition of a family member, RMA may require the employee to obtain medical certification from a health-care provider. RMA may use the U.S. Department of Labor ("DOL") optional form WH-380-E when the employee needs leave due to the employee's own serious health

condition and optional form WH-380-F when the employee needs leave to care for a family member with a serious health condition. RMA may not require information beyond that specified in the FMLA regulations.

An employee may choose to comply with the certification requirement by providing RMA with an authorization, release, or waiver allowing RMA to communicate directly with the health-care provider.

For the definition of "health-care provider," see 29 CFR 825.125.

iv. *Genetic Information*

When requesting medical certification, RMA shall comply with all requirements for requesting medical information under the Genetic Information Nondiscrimination Act ("GINA") as contained in 29 CFR 1635.8(b)(1)(i)(A).

v. *Authentication and Clarification*

If an employee submits a complete and sufficient certification signed by the health-care provider, RMA may not request additional information from the health-care provider. However, RMA may contact the health-care provider for purposes of clarification and authentication of the certification after RMA has given the employee an opportunity to cure any deficiencies, as set forth above. To make such contact, RMA must use a health-care provider, a human resources professional, a leave administrator, or a management official. Under no circumstances may the employee's direct supervisor contact the employee's health-care provider.

"Authentication" means providing the health-care provider with a copy of the certification and requesting verification that the information on the form was completed and/or authorized by the health-care provider who signed the document; no additional medical information may be requested.

"Clarification" means contacting the health-care provider to understand the handwriting on the certification or to understand the meaning of a response. RMA may not ask the health-care provider for additional information beyond that required by the certification form. The requirements of the Health Insurance Portability and Accountability Act ("HIPAA") Privacy Rule must be satisfied when individually identifiable health information of an employee is shared with RMA by a HIPAA-covered health-care provider.

vi. *Second and Third Opinions*

If RMA has reason to doubt the validity of a medical certification, RMA may require the employee to obtain a second opinion at RMA's expense. If the opinions of the employee's and RMA's designated health-care providers differ, RMA may require the employee to obtain certification from a third health-care provider, again at RMA's expense.

vii. *Foreign Medical Certification*

If the employee or a family member is visiting another country, or a family member resides in another country, and a serious health condition develops, RMA shall accept medical certification as well as second and third opinions from a health-care provider who practices in that country. If the certification is in a language other than English, the employee must provide RMA with a written translation of the certification upon request.

viii. *Recertification*

RMA may request recertification no more often than every 30 days and only in connection with an absence by the employee, except as set forth in the FMLA regulations. RMA must allow at least 15 calendar days for the employee to provide recertification.

As part of the recertification for leave taken because of a serious health condition, RMA may provide the health-care provider with a record of the employee's absence pattern and ask the health-care provider if the serious health condition and need for leave is consistent with such a pattern.

ix. *Certification—Qualifying Exigency Leave*

The first time an employee requests leave because of a qualifying exigency, RMA may require the employee to provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates of the covered military member's active duty service.

RMA may also require that the leave be supported by a certification that addresses the information at 29 CFR 825.309(b). RMA may use DOL optional form WH-384, or another form containing the same basic information, for this certification. RMA may not require information beyond that specified in the regulations.

x. *Certification—Military Caregiver Leave*

When an employee takes military caregiver leave, RMA may require the employee to obtain a certification completed by an authorized health-care provider of the covered servicemember. In addition, RMA may request that the employee and/or covered servicemember address in the certification the information at 29 CFR 825.310(c). RMA may also require the employee to provide confirmation of a covered family relationship to the seriously injured or ill servicemember.

RMA may use DOL optional form WH-385, or another form containing the same basic information, for this certification. RMA may not require information beyond that specified in the regulations. RMA must accept as sufficient certification "invitational travel orders" ("ITOs") or "invitational travel authorizations" ("ITAs") issued to any family member to join an injured or ill servicemember at his or her bedside.

RMA may seek authentication and/or clarification of the certification under the procedures described above. Second and third opinions, and recertifications, are not permitted for leave to care for a covered servicemember.

d) Intent to Return to Work

The Superintendent may develop a uniformly applied policy or practice that requires an employee on FMLA leave to report periodically on the employee's status and intent to return to work. Such a policy may not be discriminatory and must take into account all of the relevant facts and circumstances related to the individual employee's leave situation.

i. *Fitness for Duty Certification*

The Superintendent may develop a uniformly applied policy or practice that requires all similarly situated employees (i.e., same occupation, same serious health condition) who take leave for such conditions to obtain and present certification from the employee's health-care provider that the employee is able to resume work. The Superintendent may require that the certification specifically address the employee's ability to perform the essential functions of the employee's job.

ii. *Failure to Provide Certification*

If the employee fails to provide RMA a complete and sufficient certification, despite the opportunity to cure, or fails to provide any certification, RMA may deny the taking of FMLA leave. This provision applies in any case where RMA requests a certification, including any clarifications necessary to determine if certifications are authentic and sufficient.

SEC. 4. MISCELLANEOUS PROVISIONS

a) Record Maintenance

The Superintendent and/or designee shall make, keep, and preserve records pertaining to its obligations under the FMLA in accordance with the recordkeeping requirements of the Fair Labor Standards Act ("FLSA") and the FMLA regulations. RMA shall keep these records for no less than three years and make them available for inspection, copying, and transcription by representatives of the Department of Labor upon request. Such records may be kept in computer form, so long as they are made available for transcription or copying.

If the GINA is applicable, records and documents created for purposes of FMLA leave that contain family medical history or genetic information shall be maintained in accordance with the confidentiality requirements of GINA, which permit such information to be disclosed consistent with the requirements of the FMLA. If the Americans with Disabilities Act ("ADA") is also applicable, such records shall be maintained in conformance with ADA confidentiality requirements, except as excepted by the FMLA.

b) Prohibition Against Discrimination and Retaliation

RMA shall not interfere with an employee's rights under the FMLA, or with legal proceedings or inquiries relating to an employee's rights. Specifically, RMA shall not:

1. Interfere with, restrain, or deny the exercise of (or attempts to exercise) any rights provided by the FMLA.
2. Discharge or in any other way discriminate against any person (whether or not an employee) for opposing or complaining about any unlawful practice under the FMLA.
3. Discharge or in any other way discriminate against any person (whether or not an employee) because that person has:

a. Filed any charge, or has instituted (or caused to be institute) any proceeding under or related to the FMLA;
b. Given, or is about to give, any information in connection with an inquiry or proceeding relating to a right under the FMLA; and/or
c. Testified, or is about to testify, in any inquiry or proceeding relating to a right under the FMLA.

PG-4.601 BUILDING USE

RMA employees seeking to schedule use of RMA buildings and facilities must submit a request for such use to the principal, superintendent, or Executive Director of School Operations and Facilities.

PG-4.602 SOLICITATION AND DISTRIBUTION OF PROMOTIONAL MATERIALS AND DIETARY SUPPLEMENTS

SEC. 1. PROHIBITION ON SOLICITATION AND DISTRIBUTION OF PROMOTIONAL MATERIALS

RMA prohibits solicitation of employees by salespersons or other employees on RMA property.

RMA further prohibits the distribution of promotional or sales literature on RMA property by salespersons or employees at all times.

Commercial advertisements or sales for personal profit are also prohibited.

SEC. 2. PROHIBITION ON DIETARY SUPPLEMENTS

Employees of RMA may not:

1. Knowingly sell, market, or distribute a dietary supplement that contains performance enhancing compounds to a primary or secondary education student with whom the employee has contact as part of the employee's school duties; or
2. Knowingly endorse or suggest the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by a primary or

secondary education student with whom the employee has contact as part of the employee's school duties.

However, RMA employees are not prohibited from:

1. Providing or endorsing a dietary supplement that contains performance enhancing compounds to, or suggesting the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by, the employee's child; or
2. Selling, marketing, or distributing a dietary supplement that contains performance enhancing compounds to, or endorsing or suggesting the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by, a primary or secondary education student as part of activities that:
   a. Do not occur on RMA property or at a school-related function;
   b. Are entirely separate from any aspect of the employee's employment with RMA; and
   c. Do not in any way involve information about or contacts with students that the employee has had access to, directly or indirectly, through any aspect of the employee's employment with RMA.

For purposes of this policy:

1. "Dietary supplement" means a product (other than tobacco) intended to supplement the diet that bears or contains one or more of the following dietary ingredients:
   a. A vitamin;
   b. A mineral;
   c. An herb or other botanical;
   d. An amino acid;
   e. A dietary substance for use by man to supplement the diet by increasing the total dietary intake; or
   f. A concentrate, metabolite, constituent, extract, or combination of any ingredient described in items (a)-(e).
2. "Performance enhancing compound" means a manufactured product for oral ingestion, intranasal application, or inhalation that:
   a. Contains a stimulant, amino acid, hormone precursor, herb or other botanical, or any other substance other than an essential vitamin or mineral; and
   b. Is intended to increase athletic or intellectual performance, promote muscle growth, or increase an individual's endurance or capacity for exercise.

Tex. Educ. Code 38.011.

PG-4.603 INTELLECTUAL PROPERTY

SEC. 1. OWNERSHIP OF INTELLECTUAL PROPERTY

All copyrights, trademarks, and other intellectual property rights shall remain with RMA at all times.

b. Student Work

A student shall retain all rights to work created as part of instruction or using RMA technology resources.

c. Employee Work

As an agent of RMA, an RMA employee shall not have rights to work he or she creates on RMA time or using RMA technology resources. RMA shall own any work or work product created by an RMA employee in the course and scope of his or her employment, including the right to obtain copyrights.

If the employee obtains a patent for such work, the employee shall grant a non-exclusive, non-transferable, perpetual, royalty-free, district-wide license to RMA for use of the patented work. An RMA employee shall own any work or work product produced on his or her own time, away from his or her job and with personal equipment and materials, including the right to obtain patents or copyrights.

An RMA employee may apply to the superintendent or designee to use RMA materials and equipment in his or her creative projects, provided the employee agrees either to grant to RMA a non-exclusive, non-transferable, perpetual, royalty-free, district-wide license to use the work, or permits RMA to be listed as co-author or co-inventor if RMA's contribution to the work is substantial. RMA materials do not include student work, all rights to which are retained by the student.

d. Works Made for Hire

A "work made for hire" is:

1. A work prepared by an RMA employee within the scope of employment; or
2. A work specially ordered or commissioned for use as a contribution to a collective work (for example, a supplementary work, a test, an instructional text, answer material for a test,

etc.) if the parties agree in a signed written instrument that the work is considered a work made for hire.

RMA may hire an independent contractor for specially commissioned work(s) under a written works-made-for-hire agreement that provides that RMA shall own the work product created under the agreement, as permitted by copyright law. Independent contractors shall comply with copyright law in all works commissioned.

e. Return of Intellectual Property

Upon the termination of any person's association with RMA, all permission to possess, receive, or modify RMA's intellectual property shall also immediately terminate. All such persons shall return to RMA all intellectual property, including but not limited to any copies, no matter how kept or stored, and whether directly or indirectly possessed by such person.

SEC. 2. USE OF COPYRIGHTED MATERIAL

Unless the proposed use of a copyrighted work is an exception under the "fair use" guidelines maintained by the superintendent or designee, RMA shall require an employee or student to obtain a license or permission from the copyright holder before copying, modifying, displaying, performing, distributing, or otherwise employing the copyright holder's work for instructional, curricular, or extracurricular purposes. This policy does not apply to any work sufficiently documented to be in the public domain.

a. Technology Use

All persons are prohibited from using RMA technology in violation of any law including copyright law. Only appropriately licensed programs or software may be used with RMA technology resources. No person shall use RMA's technology resources to post, publicize, or duplicate information in violation of copyright law. The Board shall direct the superintendent or designee to employ all reasonable measures to prevent the use of RMA technology resources in violation of the law. All persons using RMA technology resources in violation of law shall lose user privileges in addition to other sanctions.

b. Electronic Media

Unless a license or permission is obtained, electronic media in the classroom, including motion pictures and other audiovisual works, must be used in the course of face-to-face teaching activities as defined by law.

SEC. 3. TRADEMARK USE

RMA protects all RMA and campus trademarks, including names, logos, mascots, and symbols, from unauthorized use.

a) School-Related Use

RMA grants permission to students, student organizations, parent organizations and other RMA affiliated school-support or booster organizations to use, without charge, RMA and campus trademarks to promote a group of students, an activity or event, a campus, or RMA, if the use is in furtherance of school-related business or activity. The superintendent or designee shall determine what constitutes use in furtherance of school-related business or activity and is authorized to revoke permission if the use is improper or does not conform to administrative regulations.

b) Public Use

Members of the general public, outside organizations, vendors, commercial manufacturers, wholesalers, and retailers shall not use RMA trademarks without the written permission of the superintendent or designee. Any production of merchandise with RMA trademarks for sale or distribution must be pursuant to a trademark licensing agreement and may be subject to the payment of royalties. Any individual, organization, or business that uses RMA trademarks without appropriate authorization shall be subject to legal action.

PG-4.604 TECHNOLOGY RESOURCES

SEC. 1. TECHNOLOGY RESOURCES DEFINED

For purposes of this policy, the term "technology resources" means electronic communication systems and electronic equipment belonging to RMA.

SEC. 2. ACCESS TO TECHNOLOGY RESOURCES

RMA's technology resources, including its network and access to the Internet, are made available to employees primarily for administrative and instructional purposes or as otherwise allowed by administrative regulation.

Limited personal use of RMA's technology resources is permitted if the use:

1) Does not result in any direct cost paid with State funds, or if RMA is reimbursed for any direct costs involved;
2) Does not relate to private commercial purposes;
3) Involves only incidental amounts of employee time, comparable to reasonable coffee breaks during the day; and
4) Does not have an adverse impact on an employee's job performance.

Employees may only access the Internet through RMA's approved Internet firewall.

All technology resources are RMA property, and any information located in or on technology resources is also RMA property and will be subject to inspection by RMA.

SEC. 3. E-MAIL AND VOICE MAIL SYSTEMS

All messages sent, received, composed and/or stored on RMA e-mail and/or voice mail systems are the property of RMA. E-mail transmissions and other use of RMA's electronic communications systems are not confidential and can be monitored at any time to ensure appropriate use.

SEC. 4. CONFIDENTIALITY

Employees shall not use a password, access a file, or retrieve any stored information unless authorized to do so. Employees may not attempt to gain access to another employee's files/messages.

Additionally, access to student records accessible through technology resources is restricted to those employees with a legitimate educational interest in such records in accordance with the Family Educational Rights and Privacy Act ("FERPA"). An employee has a legitimate educational interest in student records if:

1. The information is necessary for the employee to perform appropriate tasks that are specified in his or her position;
2. The information is to be used within the context of official school business and not for purposes extraneous to the employee's areas of responsibility;
3. The information is relevant to the accomplishment of some task or to a determination about the student; or

4. The information is to be used consistently with the purpose for which student records are maintained.

Having access to student records through technology resources does not constitute authority to share this information with anyone without authority or permission to view student records.

SEC. 5. PRIVACY AND MONITORED USE

All files and messages on RMA's technology resources are RMA property. They are not the property of any employee, even if created by an employee. Anything created on the Internet may, and likely will, be reviewed by others. If necessary, employees shall take steps to help protect the security of documents. RMA has the right, but not the duty, to monitor any and all aspects of its technology resources, including, but not limited to, monitoring sites employees visit on the Internet. Employees have no expectation of privacy in anything they create, store, send, or receive on RMA's technology resources.

SEC. 6. RESTRICTIONS

1) Employees are not allowed to use RMA's technology resources for any reason other than official school business, except as allowed under Section 2 (Access to Technology Resources) above.
2) Employees may not use e-mail or the Internet to send or receive materials, proprietary financial information, or other similar materials that violate copyright law.
3) RMA's e-mail system may not be used to create any offensive or disruptive messages. Among those which are considered offensive are any messages that contain sexual implications, racial or gender-specific slurs, or any other comment that offensively addresses an individual's age, sexual orientation, religious or political beliefs, national origin, disability, or anything that could be construed as harassment or disparaging of others.
4) Employees should refrain from sending non-business-related e-mails to other RMA employees or persons outside the RMA system.
5) RMA is responsible for maintaining records of software licensing agreements for RMA. In order to ensure compliance with copyright laws and software licensing agreements, and help prevent computer viruses from being transmitted through the system, employees are not permitted to install or download any software or content, such as music, videos, or non-work related "zipped" files onto RMA's computer system without prior approval from the principal or designee.
6) Unauthorized duplication of software, often referred to as "piracy," is a federal crime. Employees are not permitted to make, acquire, or use unauthorized copies of computer software.

Employees who are authorized to use RMA's technology resources are required to abide by the provisions of this policy and any related administrative procedures. Failure to do so can result in suspension or termination of privileges and may lead to disciplinary action, up to and including termination of employment. Employees should notify their immediate supervisor(s) or the Executive Director of School Operations and Facilities upon learning of violations of this policy.

SEC. 7. ACCEPTABLE USE POLICY

The superintendent or designee shall develop and implement administrative regulations and guidelines for acceptable use of RMA's technology resources. Such regulations and guidelines shall be provided annually to employees as part of the Employee Handbook, or in another method deemed appropriate by the superintendent.

Access to RMA's technology resources is a privilege, not a right. All employee users will be required to acknowledge receipt and understanding of RMA's acceptable use regulations and guidelines, and shall agree in writing to allow monitoring of their use and to comply with such regulations and guidelines. Noncompliance with RMA's acceptable use policy may result in disciplinary action, up to and including termination, as allowed by RMA policy. Violations of law may result in referral to criminal authorities, as well as disciplinary action by RMA.

SEC. 8. DISCLAIMER OF LIABILITY

RMA will not be liable for an employee's inappropriate use of technology resources, violations of copyright restrictions or other laws, users' mistakes or negligence, and costs incurred by users. RMA is not responsible for ensuring the availability of technology resources or the accuracy, age appropriateness, or usability of any information accessed through the Internet.

SEC. 9. ACCESS TO CELLULAR AND/OR WIRELESS TELEPHONE EQUIPMENT AND ACCOUNTS

Access to cellular and/or wireless telephone equipment and accounts belonging to RMA is made available exclusively for instructional and administrative purposes in accordance with guidelines and regulations developed by RMA. Access to this equipment is a privilege, not a right, and can be revoked at any time.

The superintendent or designee shall develop and define guidelines for the responsible and ethical use of RMA-supplied telephone equipment and accounts. Such guidelines shall be distributed to all RMA employees.

a. Consequences for Violations

Violations of RMA's guidelines for access to cellular and/or wireless telephone equipment and accounts will be treated like other allegations of wrongdoing. Allegations of misconduct will be adjudicated according to established procedures. Sanctions for violations of these guidelines may include, but are not limited to, one or more of the following:

1. Temporary or permanent revocation of access to some or all cellular or wireless telephone resources.
2. Disciplinary action, up to and including termination.
3. Legal action according to applicable laws and contractual agreements.

SEC. 10. RECORD RETENTION

RMA employees shall retain electronic records pertaining to RMA business, whether created or maintained using RMA's technology resources or using personal technology resources, in accordance with RMA's record management program.

PG-4.605 SOCIAL MEDIA AND ELECTONIC COMMUNICATIONS WITH STUDENTS

Sec. 1. ELECTRONIC AND SOCIAL MEDIA

Electronic media includes all forms of social media, such as text messaging, instant messaging, electronic mail (e-mail), web logs (blogs), electronic forums (chat rooms), video-sharing web sites, editorial comments posted on the Internet, and social network sites. Electronic media also includes all forms of telecommunication, such as land lines, cell phones, and web-based applications.

Sec. 2. SCHOOL-OWNED SOCIAL MEDIA ACCOUNTS

a. *General Guidelines*

RMA may provide employees with access to social media applications or accounts. Only public information is permitted to be posted by RMA employees on school-owned social media websites. If communication that takes place on a school-owned social media websites involves or requires private information, communication will be redirected through other appropriate channels.

RMA retains ownership of all school-owned social media applications or accounts used for school business.

b. Content of Social Media Posts

All content posted by employees to school-owned social media accounts is subject to monitoring. Employees are strictly prohibited from using school-owned social media accounts to post material(s) that:

- Advertises or promotes a commercial product or service, or any entity or individual;
- Are obscene or that appeal to the prurient interest;
- Consist of personal attacks or insulting statements directed toward an individual;
- Contain offensive terms that target protected classes;
- Contains information that reasonably could compromise public safety;
- Incites or promotes violence or illegal activities;
- Include personal identifying information or sensitive personal information, as defined by Chapter 521 of the Texas Business and Commerce Code;
- Is of a repetitive or "spamming" nature (the same comment posted multiple times)
- Is threatening, harassing or discriminatory; or
- Promotes or endorses political campaigns or candidates.

c. Password Security

Employees granted access to school-owned social media accounts must maintain the security of any password used to access the account. In the event an employee changes a password to a school-owned social media account, the employee must provide the RMA with the updated password or similar login credentials used to access the account.

d. Policy Violations

Employees who violate RMA's standards for use of school-owned social media accounts are subject to discipline, up to and including termination.

Sec. 3. ELECTRONIC COMMUNICATIONS WITH STUDENTS

a. Introduction

In this policy, "electronic communication" means any communication facilitated by the use of any electronic device, including a telephone, cellular telephone, computer, computer network, personal data assistant, or pager. The term includes e-mails, text messages, instant messages, and any communications made through an Internet website, including a social media website or a social networking website.

b. Electronic Communications with Students

RMA employees may engage in electronic communications with students who are currently enrolled in RMA for academic purposes only. All other employees are prohibited from communicating electronically with a student who is enrolled in RMA unless express authorization is provided by the Superintendent or designee. An employee is not subject to these provisions to the extent he or she has a social or family relationship with a student.

i. *Inappropriate Communications*

RMA employees are prohibited from using electronic communications in a manner that constitutes prohibited harassment or abuse of a RMA student; adversely affects a student's learning, mental health, or safety; includes threats of violence against a student; reveals confidential information about a student; or constitutes an inappropriate communication with a student.

Factors that may be considered in assessing whether the communication is inappropriate include, but are not limited to:

- The nature, purpose, timing, and amount of the communication;
- The subject matter of the communication;
- Whether the communication was made openly or the educator attempted to conceal the communication;
- Whether the communication could be reasonably interpreted as soliciting sexual contact or a romantic relationship ;
- Whether the communication was sexually explicit; and
- Whether the communication involved discussion(s) of the physical or sexual attractiveness or the sexual history, activities, preferences, or fantasies of either the educator or the student.

ii. *No Expectation of Privacy*

RMA employees have no expectation of privacy in electronic communications with students. Employees shall comply with RMA's requirements for record retention and destruction to the extent those requirements apply to electronic communications with students.

c. Incident Notification

A RMA employee shall report to the Principal any incident in which a student engages in improper communications with the employee. Such reports should include a summary of the student's communication, as well as the time, date, and method of communication.

d. Disclosing Personal Telephone Number or E-mail Address

A RMA employee may elect not to disclose to students the employee's personal telephone number or e-mail address.

Sec. 4. PERSONAL USE

Employees shall be held to the same professional standards in their public use of social media and/or electronic media as they are for any other public conduct. If an employee's use of social media and/or electronic media violates state or federal law or RMA policy, or interferes with the employee's ability to effectively perform his or her job duties, the employee is subject to disciplinary action, up to and including termination of employment.